

CHAPTER 2: DEFINITIONS

This chapter lists the official (legal) definitions of terms used in this SMP. As used in this SMP, unless the context requires otherwise, the following definitions and concepts apply:

- 2.01 “Act” means Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.
- 2.02 “Accessory Building or Use” means a subordinate building or use which is located on the same legal lot as the principal building or use.
- 2.03 “Accessory utility” means local transmission and collection lines, pipes, and conductors associated with water, sewer, gas, telephone, cable-TV, or similar utilities, or with irrigation systems, and other similar facilities intended to serve a development or an individual use, including access roads and appurtenant structures necessary to facilitate the utility use.
- 2.04 “Administrative Authority” shall, in the context of these regulations, mean the town clerk for the Town of Winthrop.
- 2.05 “Administrator” means the duly appointed town land use administrator..
- 2.06 “Advertising Sign” Any device, structure, fixture or placard that is visible from a public right-of-way or surrounding properties and which uses graphics, symbols or written copy for the purpose of advertising or identifying any establishment, product, goods or service.
- 2.07 “Agriculture” and “Agricultural Activities” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;
- 2.08 “Agricultural Equipment” and “Agricultural Facilities” includes, but is not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities;

water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains; (ii) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) Farm residences and associated equipment, lands, and facilities; and (iv) Roadside stands and on-farm markets for marketing fruit or vegetables.

- 2.09 “Agricultural Land” means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation.
- 2.10 “Agricultural Products” includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;
- 2.11 “Aquaculture” means the culture or farming of food fish, shellfish, or other aquatic plants or animals. Aquaculture is an activity of statewide interest. It is a water-dependent use and, when consistent with control of pollution and prevention of damage to the environment and undertaken in conformance with the provisions of this SMP, is a preferred use of the water area.
- 2.12 “Animal feeding operation” or “AFO” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- 2.13 “Appurtenance” means development that is necessarily connected to the use and enjoyment of residential and water-oriented commercial uses and is located landward of the OHWM and/or the perimeter of a wetland. Appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading which does not exceed the threshold established in local SEPA or building regulations, whichever is less, and which does not involve placement of fill in any wetland, floodway, floodplain or waterward of the ordinary high water mark.
- 2.14 “Associated Wetlands” is synonymous with "wetlands" or "wetland areas
Wetlands that are in proximity to, lakes, rivers or streams that are subject to the SMA and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location

contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

- 2.15 “Aquifer Recharge Area” Area with a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.
- 2.16 “Aquaculture” is the farming of aquatic organisms including fish, mollusks, crustaceans and aquatic plants. Farming implies some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators and so forth.
- 2.17 “Archaeological resource/site” means archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered, are located on Okanogan County shorelands and, including, but not limited to, submerged and submersible lands and the bed of the rivers within the state’s jurisdiction, that contains archaeological objects. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter. “Significant” is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:
- a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
 - b. That are associated with the lives of significant persons in our past; or
 - c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - d. That has yielded or may be likely to yield, information important in history or prehistory.
- 2.18 “Average Grade Level” means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the ground elevations at the center of all exterior walls of the proposed building or structure.

- 2.19 “Bed and Breakfast” means an owner-occupied single-family dwelling in which not more than two bedrooms for not more than six guests total are rented for money or other valuable consideration to the traveling public. For the purposes of this title this use is not considered a commercial enterprise, rather it will be considered as an extended family unit which is comparable in intensity of use to that of a blood-related family with two or more children who are licensed drivers. Only one meal, breakfast, may be served at a bed and breakfast.
- 2.20 “Best Available Science” The current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925, for when used within this SMP, the most current, accurate, and complete scientific and technical information available WAC 173-26-201(2)(a)
- 2.21 “Best management practices” means (BMP’s) means conservation practices or systems of practices and management measures that:
- a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment:
 - b. Minimize adverse impacts to surface water and ground water flow, circulation pattern, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats.
 - c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.
- 2.22 “Boating facilities” Developments and uses that support access to shoreline waters for purposes of boating.
- 2.23 “Building” Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind and not including advertising signboards or fences.
- 2.24 “Buffer, Use (Zone 2)” means an area that is contiguous to and protects a critical area that is required for the continued maintenance, functioning, and/or structural stability of a critical area.
- 2.25 “Buffer, Vegetation (Zone 1)” means the vegetation area adjacent to a shoreline that separates and protects the shoreline aquatic area from adverse impacts associated with adjacent land uses.
- 2.26 “Buffer, Wetland” means the vegetation area adjacent to a wetland that separates and protects the wetland aquatic area from adverse impacts associated with adjacent land uses.
- 2.27 “Bulkhead” A structure erected generally parallel to and near the OHWM for the purpose of protecting adjacent uplands from waves or current action.

- 2.28 “Bulk storage” means non-portable storage of bulk products in fixed tanks.
- 2.29 “CAFO” Concentrated Agricultural Feeding Operation, as defined by the Code of Federal Regulations 122.23.
- 2.30 “Campgrounds” A development providing facilities for outdoor recreational activities, including structural improvements such as covered cooking areas, group facilities, self-contained travel trailer/motor home sites, tent sites, restroom and shower facilities, and laundry facilities for the convenience of temporary occupants. This definition includes camping clubs when developed in accordance with applicable town and state laws.
- 2.31 “Channel migration zone (CMZ)” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.
- 2.32 “Clearing” The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.
- 2.33 “Commercial use” Facilities used or established to provide goods, merchandise or services for compensation or exchange, excluding facilities for the growth, production, or storage of agricultural products.
- 2.34 “Community boating facilities” including docks, piers, ramps, marinas, etc...are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized the facilities, then the multiple upland property owners of a residential development would also be considered community boating facilities.
- 2.35 “Community joint-use recreational dock” means a dock intended for the common use of the residents of adjoining parcels or subdivision, shore subdivision, or community located on adjacent uplands. A community joint-use recreational dock shall not be a commercial endeavor and shall not for the purpose of serving the public.
- 2.36 “Critical Areas” Critical Areas include the following areas and ecosystems, as designated by the town of Winthrop: Wetlands; Areas with a critical recharging effect on aquifers used for potable water; aquatic, riparian, upland and wetland Fish and Wildlife habitat conservation areas; Frequently flooded areas; Channel Migration Zones; and Geologically hazardous areas.
- 2.37 “Critical Areas Report” is a report prepared by a qualified professional required by

the agency with jurisdiction that inventories and analyses the development impacts of a proposed action on a critical area. Critical Area report requirements are found in Chapter 11 of this SMP.

- 2.38 “Cumulative Impacts” means the impact on the environment resulting from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of who undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- 2.39 “Density” An expression of the intensity of use of property, usually indicated in the following manner: For residential uses: Minimum acreage or square footage required for each residential unit; for non-residential uses: Maximum amount of use and/or floor area expressed as a percentage or fraction of the size of the lot.
- 2.40 “Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d).)
- 2.41 “Development regulations” means the controls placed on development or land uses by the town of Winthrop, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto.
- 2.42 “Dike” means an artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.
- 2.43 “Dock” means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water-dependent recreation including but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.
- a. Private docks- over-water structures are constructed and utilized for private moorage by a single residential waterfront property owner; or an upland property owner adjacent to publicly owned shoreline where the public entity has authorized the placement of a private dock. Joint use docks - are constructed and utilized by two or more contiguous residential waterfront property owners. Joint use dock facilities may also serve one waterfront property owner and one or more contiguous upland property owners; or may consist of two or more upland property owners adjacent to publicly owned shoreline, where the public entity has authorized the placement of a joint use

dock.

- b. Community docks- are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the dock facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized dock facilities, the dock facilities for multiple upland property owners of a residential development would also be considered community dock facilities.
 - c. Public docks- are constructed and utilized for use by the general public, typically owned and managed by a public agency and may include a boat ramp.
- 2.44 “Dredge material disposal” means the disposal of material excavated waterward of the ordinary high watermark according to the DNR disposal procedures manual.
- 2.45 “Dredging” means the removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies or from wetlands.
- 2.46 “Dwelling, Multi-Family” means a building containing two or more dwelling units.
- 2.47 “Dwelling, Single-Family” means a detached building containing one dwelling unit.
- 2.48 “Dwelling unit” means a building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation for not more than one family; hotel, motel, rooms and boarding units which are used primarily for transient tenancy shall not be considered as dwelling units for zoning purposes.
- 2.49 “Ecological functions” or “shoreline functions” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201 (2)(c).
- 2.50 “Ecological restoration and/or enhancement” is an “intentional activity that initiates, accelerates, or intended to recover ecosystem functions with respect to its health, integrity and sustainability. The practice of ecological restoration and/or enhancement includes a wide scope of projects including, but not limited to: erosion control, reforestation, removal of non-native species and weeds, revegetation of disturbed areas, daylighting streams (e.g. culvert/pipe removal, bring an artificially underground stream to the surface), reintroduction of native

species, as well as habitat and range improvement for targeted species.

- 2.51 “Ecologically intact” shorelines, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.
- 2.52 “Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
- 2.53 “Emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- 2.54 “Emergency construction” is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii)).
- 2.55 “Exempt, substantial development” means any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen dollars (\$5,718) or dollar value as amended by the State of Washington Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state, and any development which does meet the definition of substantial development contained herein. Note – exemption does not preclude compliance with the regulations contained herein, or provide an exemption from any other permit processes except as provided herein.
- 2.56 “Experimental aquaculture” means an aquaculture project that uses methods or technologies that are unprecedented or unproven in the State of Washington.
- 2.57 “Fair Market Value” of a development is the expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, dumping or filling, the fair market

value is the expected cost of hiring a contractor to perform the operation or where no such a value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitting project.

- 2.58 “Feasible” means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
- a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
 - b. The action provides a reasonable likelihood of achieving its intended purpose; and
 - c. The action does not physically preclude achieving the project's primary intended legal use. In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the local or tribal government reviewing the application may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.
- 2.59 “Feedlot” means an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, a confined area or structure for feeding, breeding or holding livestock for eventual sale or slaughter and in which animal waste accumulates faster than it can naturally dissipate without creating a potential for a health hazard, particularly with regard to surface and groundwater; but not including barns, pens or other structures used in a dairy operation or structures on farms holding livestock primarily during winter periods.
- 2.60 “Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
- 2.61 “Fish and Wildlife Habitat Conservation Areas” habitats of priority species, priority habitats, and habitats of local importance for fish and wildlife that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, movement corridors, and areas of limited availability or high vulnerability to alteration, such as cliffs, talis, and wetlands.
- 2.62 “Floats” means a detached, anchored structure that is free to rise and fall with water levels including any floating, anchored platform or similar structure, used

for boat mooring, swimming or similar recreational activities that is not anchored or accessed directly from the shoreline.

- 2.63 “Floating homes” A structure designed and operated substantially as a permanently based over water residence. Floating homes are not vessels and typically lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi permanent anchorage/moorage facilities.
- 2.64 “Flood control works” means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.
- 2.65 "Floodplain" is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon the flood ordinance regulation maps of the local or tribal government with jurisdiction.
- 2.66 “Floodplain management” means a long-term program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.
- 2.67 “Floodway” means that either (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.
- 2.68 “Forest Lands” means lands designated as forest lands, as required by the Growth Management Act, RCW 36.70A.170 and as regulated under RCW 76.09.
- 2.69 “Frequently Flooded Area” means the floodplain, the future-flow floodplain, and those lands that provide important flood storage, conveyance and attenuation functions.
- 2.70 “Frontage” is the distance measured along the ordinary high water mark.
- 2.71 “Future Flow Floodplain” means the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow

at build out without any measurable increase in flood heights.

2.72 “Geologically Hazardous Areas” Area” means:

- a. Any area designated as a Geologically Hazardous Area by the local government with jurisdiction; or
- b. Any other area that is not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns, because of the area’s susceptibility to erosion, sliding, earthquake, or other geological events, including but not limited to:
 1. Channel migration zones;
 2. Erosion hazard areas: areas that contain soil types, according to Soil Conservation Service's Soil Classification System, that may experience severe to very severe erosion;
 3. Landslide hazard areas: areas that have the potential of risk of mass movement resulting from a combination of geologic, topographic, and hydrologic factors;
 4. Seismic hazard areas: areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction;
 5. Mine hazard areas: areas that are directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts;
 6. Volcanic hazard areas: areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mud flows, or related flooding resulting from volcanic activity.

2.73 “Geotechnical report” or “geotechnical analysis” means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists-who have professional expertise about the regional and local shoreline geology and processes.

2.74 “Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of

the land.

- 2.75 “Gravel Pit” Land from which sand, gravel or quarried rock is extracted, but does not include the extraction of metals, minerals or fossil fuels. (See Mining)
- 2.76 “Guest House” For the purposes of 17.16 Winthrop Municipal Code, is a small living unit accompanying the main residence permitted on a lot of minimum size or larger for the purpose of housing guests, friends, and relatives and having its own kitchen and toilet facilities. The total floor area of such a unit shall be a minimum of 500 square feet and not exceed 50% of the total area of the main residence. The main residence shall be occupied by the property owner.
- 2.77 “Guidelines” means the State of Washington’s adopted Shoreline Master Program Guidelines (WAC 173-26, as amended).
- 2.78 “Habitat” means the specific area or environment in which a particular type of plant or animal lives.
- 2.79 “Hard shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion including but not limited to, bulkheads, rip-rap, jetties, groins, breakwaters, and stone reinforcement.
- 2.80 “Height, building”

is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the decline of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or finished ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or finished ground surface is not more than six feet above the lowest finish grade.

2. An elevation six feet higher than the lowest finished grade when the highest sidewalk or finished ground surface described in subsection 1 of this definition is more than six feet above the lowest finished grade

4.01 .

4.02 “Historic Site” means those sites that are eligible to be listed or are listed on the Washington Heritage Register, National Register of Historic Places, or any locally developed historic registry formally adopted by the responsible local government.

4.03 “Hotels and Motels” Establishments for housing the traveling public on an overnight or short term basis. Accessory restaurant and recreational facilities are usually available to non-guests as well as guests.

4.04 “Industrial use” means a use including manufacturing, processing, warehousing,

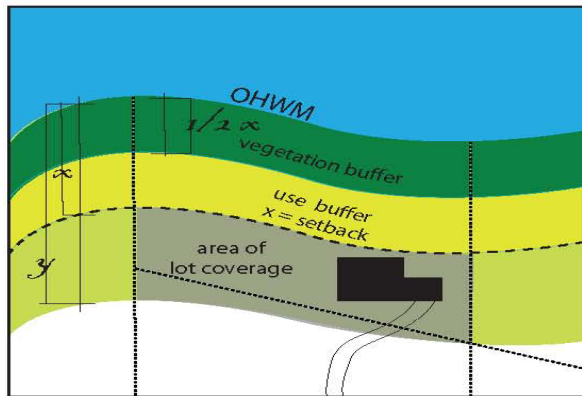
storage, distribution, shipping and other related uses.

- 2.84 “Inns, Lodges and Guest Ranches” Establishments for housing and providing either organized entertainment (both active and passive) or recreational opportunities for stays, generally, several nights in duration. This type of facility either provides all recreational opportunities on-site or as part of an organized or duly licensed and/or permitted recreational activity on public or private lands in the vicinity of the inn, lodge or guest ranch.
- 2.85 “In-stream Structure” means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.
- 2.86 “Landfill” means a disposal site or part of a site at which waste is placed in or on land and which is not a landspreading disposal facility, or as otherwise defined by the town of Winthrop. The most stringent definition shall apply.
- 2.87 “Land Use, High Impact” “High Intensity Land Use” means land use that includes the following uses or activities: commercial, urban, industrial, institutional, retail sales, residential (more than 1 unit/acre), high intensity new agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), and hobby farms.
- 2.88 “Land Use, Low Impact” means land use that includes the following uses or activities, forestry (cutting of trees only), low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.), unpaved trails, utility corridor without a maintenance road and little or no vegetation management.
- 2.89 “Land Use Medium Impact” means land use that includes the following uses or activities, residential (1 unit/acre or less), moderate-intensity open space (parks with biking, jogging, etc.), conversion to moderate-intensity agriculture (orchards, hay fields, etc.), paved trails, building of logging roads, utility corridor or right-of-way shared by several utilities and including access/maintenance road.
- 2.90 “Large Woody Debris” or “LWD” means all wood greater than four inches (4”) in diameter naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.
- 2.91 “Litter container” means a container provided on public or private property for temporary disposal of wastepaper, used beverage or food containers, and other small articles of rubbish, trash, or garbage by users of the site. Every litter container shall be closed with a well-fitting lid or designed to reasonably prevent its contents from becoming litter.

2.92 “Local Government” means any county, incorporated city or town or Tribal corporation which contains within its boundaries any lands or waters subject to the Shoreline Management Act.

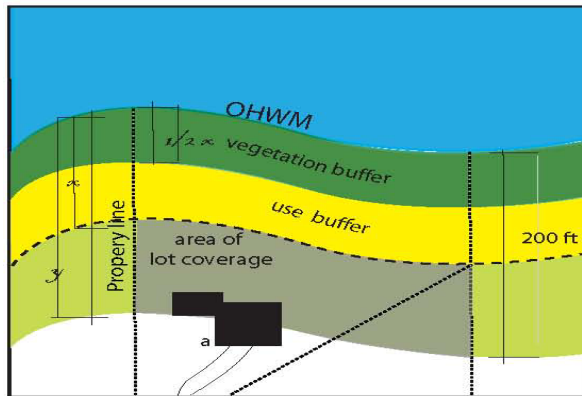
2.93 “Lot Coverage, shoreline” means that portion of the lot that is covered by structures, including any eaves, overhangs and roofed structures, and other impervious surfaces. Lot coverage is expressed as a percentage of the total lot area.

2.93.1

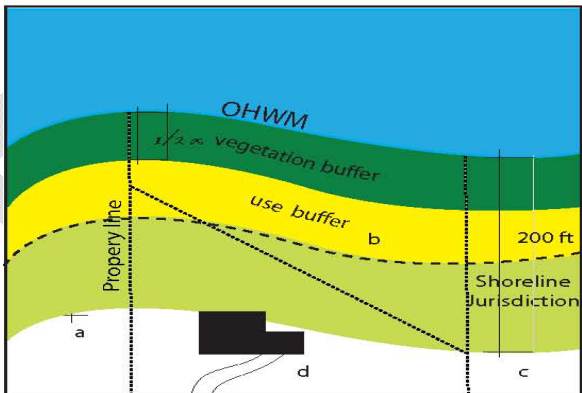


Lot Coverage regulations apply to the area landward of the setback

Generic example of lot wholly within shoreline with setback, use buffer and vegetation buffer lines, and area where lot coverage standards apply



a. Example of lot partially within shoreline depicting: building setback, use buffer, vegetation buffer, and area where lot coverage standards apply



If lots b & d are owned by separate individuals, buffer and structure setbacks are not applicable to development occurring on lot d.

2

2.94 “Lot Width” The horizontal distance between the side lot lines measured at right angles to the line comprising the depth of the lot at a point midway between the front lot line and the rear lot line.

2.95 “Manure lagoon” means a waste treatment impoundment, in which manure is mixed with sufficient water to provide a high degree of dilution for the primary

- purpose of reducing pollution potential through biological activity.
- 2.96 “May” means an action is acceptable, provided it conforms to the provisions of this SMP.
- 2.97 “Must” means an action is required.
- 2.98 “Manufacturing, Heavy” Industrial enterprises and activities which possess potential nuisance or hazard components or place exceptional demands upon public facilities and services. Such facilities generally involve the manufacturing, assembly, fabrication and processing, bulk handling, storage, warehousing, and heavy trucking activity and normally require sites of larger size to accommodate these uses.
- 2.99 “Manufacturing, Light” A manufacturing use, in which goods are produced without using heavy machinery such as, machine loaders, foundry machinery, metal, presses, etc., and without chemically processing materials. Light manufacturing activities include but are not limited to the following activities:
- a. Manufacture, assembly, finishing, and/or packaging of small items from component parts. Examples include but are not limited to pottery, clothing, assembly of clocks, electrical appliances, or medical equipment.
 - b. Production of items made from materials derived from plants or animals, including but not limited to leather, pre-milled wood, paper, wool or cork; or from textiles, semi-precious or precious metals or stones, or plastics.
 - c. Production or bottling of beverages for human consumption, including but not limited to beer, wine and soft drinks.
- 2.100 “Mineral extraction” means the removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this Program.
- 2.101 “Mineral Resource Lands” means lands designated as mineral resource lands, as required by the Growth Management Act, RCW 36.70A.170.
- 2.102 “Mineral prospecting” means to excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment.
- 2.103 “Mining” The act of extracting from the earth minerals and/or ores via open pit, shaft, leaching, hydraulic, or other methods, except dredging and sand and gravel. Note that mining activities are subject to zoning regulation and approval processes; however, prospecting and exploration activities that are conducted with minimal disturbance of the subject property are not considered mining and are not restricted by zoning. Surface mining operations are also regulated by Department

of Natural Resources.

- 2.104 “Mitigation” means avoiding, minimizing, rectifying, reducing, compensating for, and/or monitoring an impact as defined in Washington State’s SEPA rules, 197-11-768 WAC.
- 2.105 “Mitigation plan” shall include a written report or authorization (by a state or federal agency) prepared by a qualified professional identifying environmental goals and objectives of the compensation proposed and including:
- a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
 - b. A review of the most current, accurate, and complete scientific and technical information supporting the proposed mitigation and a description of the report author’s experience to date in restoring or creating the type of critical area proposed; and
 - c. An analysis of the likelihood of success of the compensation project.
 - d. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Title have been met.
 - e. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as: The proposed construction sequence, timing, and duration; Grading and excavation details; Erosion and sediment control features; A planting plan specifying plant species, quantities, locations, size, spacing, and density; and Measures to protect and maintain plants until established. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.
- 2.106 “Mixed use development” means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design. Mixed use developments must include a water dependent use(s) and provide a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration, except as provided for in WAC 173-26-241(3)(d).
- 2.107 “Monitoring” means evaluating the impacts of development on the environment

- (which may include biology, geology, hydrology, hydraulics, and other factors related to safety and shoreline ecological function) and determining how well any required mitigation measures are functioning through the monitoring period. Monitoring may also include collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features; and does also include gathering baseline data.
- 2.108 “Multi-family dwelling (residence)” means a single building, or portion thereof, designed for or occupied by three (3) or more families living independently of each other in separate dwelling units on one lot of record and, for the purpose of this code, includes triplexes, fourplexes, apartment buildings, and residential condominiums.
- 2.109 “Municipal uses” are those in support of local government functions and services. For the purposes of this SMP, recreational uses and utility facilities are excluded.
- 2.110 “Natural Resource Lands” means lands designated as agricultural lands, forest lands, or mineral resource lands, as required by the Growth Management Act, RCW 36.70A.170.
- 2.111 “Navigable water bodies”
- 2.112 “Nonconforming Structure, shoreline” A existing structure built in conformance with SMP requirements in place at the time of construction or prior to the effective date of the adoption of this SMP that could not be built under the terms of this SMP or any amendment thereto.
- 2.113 “Nonconforming Use” A existing use allowed in conformance with SMP requirements in place at the time of initiation or prior to the effective date of the adoption of this SMP that could not be built under the terms of this SMP or any amendment thereto.
- 2.114 “Non-structural shoreline stabilization” includes building setbacks, ground water management, and planning and regulatory measures to avoid the need for structural stabilization, vegetation stabilization and bioengineered stabilization.
- 2.115 “Non-water-oriented use” means a use that is not a water-dependent, water-related, or water-enjoyment use.
- 2.116 “Office of Financial Management” means the Office of Financial Management of the State of Washington.
- 2.117 “Official Map of Shorelines” means all maps adopted as part of the Master Program delineating the geographic boundaries of all designated water bodies of Okanogan County, the incorporated municipalities, and the Indian Reservation therein, coming under the jurisdiction of the Shoreline Management Act of 1971.
- 2.118 “Open Space, Common” means land within or related to development, not individually owned (owned in undivided interest), which is designed and intended

- for the common use or enjoyment of the residents of the development. Trail systems and organized recreational activities may be included as part of the open space for lot coverage calculations.
- 2.119 “Open space, Individual Ownership” Land within or related to a development owned individually, which remains undeveloped (except for trails) and that is dedicated for use in the development and is retained or restored to its native state or used for agricultural or recreational purposes, e.g., part of an organized trail system, structure approved by the Dept. of Fish and Wildlife, and structures of historical/ architectural preservation significance or used as designated wildlife open space.
- 2.120 “Open Space Public” means any land which has been acquired, set aside, dedicated, designated or reserved for general public use or enjoyment.
- 2.121 “Open Space, Conservation” means land retained in an open or unimproved condition, which has been set aside, dedicated, designated, or reserved for fish and wildlife preservation or enhancement purposes. Mechanisms for preservation of Conservation Open Space include but are not limited to: Subdivision, Planned Development (PD), or Planned Destination Resort (PDR) process. Lands within this type of an open space dedication may include portions and combinations of forest, agricultural and grazing lands, priority fish and wildlife habitats, on-site watersheds, 100 year floodplains, county shorelines or shorelines of state-wide significance and riparian areas and wetlands. Land so designated shall not include areas of human impact and shall contain no structures or impervious surfaces other than those which are approved by the Administrator e.g., part of an organized trail system, structure approved by the Dept. of Fish and Wildlife, and structures of historical/architectural preservation significance or used as designated Conservation open space.
- 2.122 “Ordinary high water mark” on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.
- 2.123 “Over-water structures” Any structure located waterward of the OHWM. Common examples include, but are not limited to, residential piers, marinas, and bridges.
- 2.124 “Permit” means any form of permission required under the act or this shoreline master program, prior to undertaking activity on shorelines of the state, including

- substantial development permits, variances, conditional use permits, permits for oil or natural gas exploration activities, permission which may be required for selective commercial timber harvesting, and shoreline exemptions.
- 2.125 “Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.
- 2.126 “Placer mining” means the mining (by panning or dredging) of alluvial (waterborne) or glacial deposits of precious metals or minerals, usually in stream beds or valleys adjacent to uplands rich in these minerals.
- 2.127 “Primary utilities” are transmission, collection, production, or treatment facilities that are generally regional or area wide in scope and provide the primary service to a large area and may or may not be connected directly to the uses along the shoreline. Utilities include primary transmission facilities related to a hydropower and communications, and distribution or collection systems for water, sewer mains, gas and oil pipelines, and wastewater and water treatment plants.
- 2.128 “Priority Habitat” means a habitat type with unique or significant value to one or more species and designated as Priority Habitat by the Washington Department of Fish and Wildlife.
- 2.129 “Priority Species” means a species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels and designated as a Priority Species by the Washington Department of Fish and Wildlife.
- 2.130 “Provisions” means policies, regulations, standards, guideline criteria or environment designations.
- 2.131 “Public Access” means the public's right to get to and use the State's public waters the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic roads and overlooks, viewing towers and other public sites or facilities.
- 2.132 “Public Trust Doctrine” means a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state.
- 2.133 “Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with

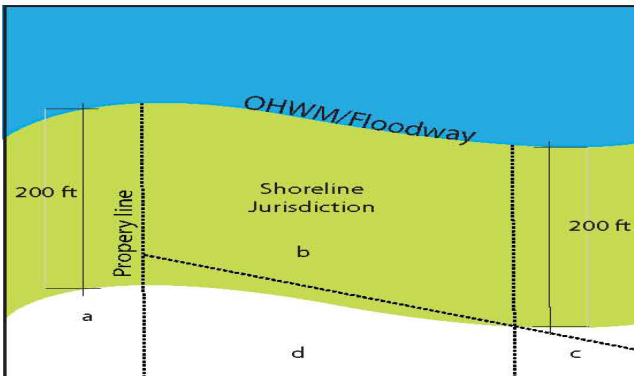
- expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional will have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and have at least two years of related work experience. A geologist must have a state license.
- 2.134 “Recreation, low-intensity” means recreation that does not require developed facilities other than unpaved trails and can be accommodated without change to the area or resource other than development of trails and placement of litter containers and directional and interpretive signs. Examples are hiking, shore fishing, and bicycling.
- 2.135 “Recreational development” “Recreational Development” means the modification of the natural or existing environment to accommodate recreation. This includes clearing land, earth modifications, structures and other facilities such as parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, wildlife enhancement (wildlife ponds are considered excavation), and other low intensity use outdoor recreation areas.
- 2.136 “Recreational uses” Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access are considered nonwater-oriented. For example, a recreation uses solely offering indoor activities would be considered nonwater-oriented.
- 2.137 “Recreational Vehicle (RV) Park” A tract of land developed with individual sites for rent and containing roads and utilities to accommodate recreational vehicles or tent campers for vacation or other similar short stay purposes.
- 2.138 “Residential development” means one or more buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, mobile homes, short and long divisions of land and other structures that serve to house people.
- 2.139 “Responsible Official” shall mean the duly elected Mayor or Town Clerk for the town of Winthrop.
- 2.140 “Restore”, “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline

area to aboriginal or pre-European settlement conditions.

- 2.141 “Riparian Area” means those transitional areas between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence). Riparian areas are adjacent to perennial, intermittent, and ephemeral (with existing riparian vegetation) streams, lakes, and estuarine-marine shorelines.
- 2.142 “Riprap” means broken stone or other hardening material placed along the shoreline of a lake, river, or stream to prevent erosion or provide stability.
- 2.143 “Sanitary landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.
- 2.144 “Seasonal” A temporary use the duration of which is related to an identifiable climatic, cultural, or recreational period. (i.e., summer, winter, fall, spring, Christmas, ski season).
- 2.145 “Setback, shoreline” means the required minimum distance between the Ordinary High Water Mark and the outer-most vertical plane of any building, structure, device, fence, swimming pool, landscaped or graded area, or other improvement causing a disturbance to the natural landscape.
- 2.146 “Shoreline frontage” means the land measured in linear feet that lies adjacent to the lake, river, or stream subject to this program.
- 2.147 “Shoreline ecological function” see “Ecological function”
- 2.148 “Shoreline Jurisdiction” or “Shoreline Area” means:
- a. Type I Water: “shoreline jurisdiction” or “shoreland areas” means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways (meaning floodways includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom); and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter.
 - b. All Other Waters within shoreline jurisdiction: shoreline jurisdiction or shoreline area shall be defined that those lands lying 200 feet as measured on a horizontal plane from the ordinary high water mark of all water bodies subject to this SMP or the one-hundred year floodplain and any wetlands associated therewith, whichever is greater. as Shoreline Area subject to the

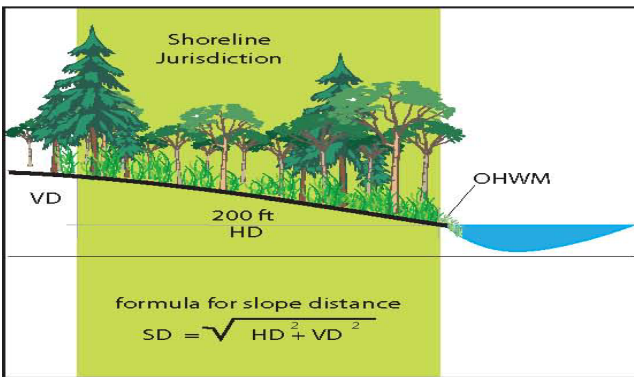
provisions of this

- 2.149 “Shoreline Master Program” or “SMP” means the comprehensive use plan for the shoreline area of a jurisdiction subject to this title, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.;

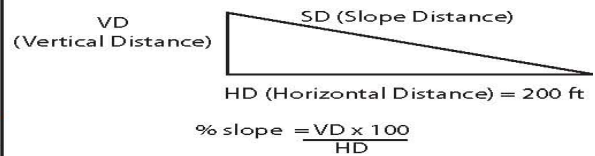


Shoreline Jurisdiction

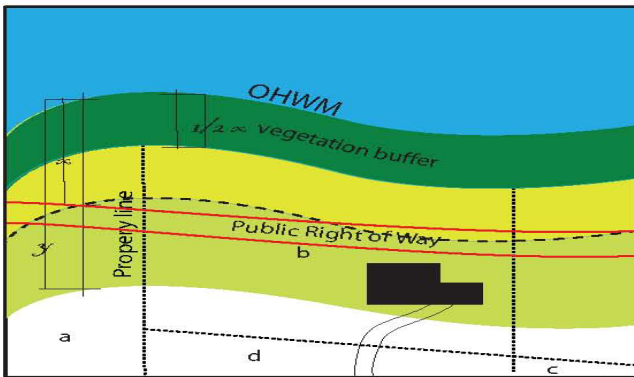
- a & d. Parcels partially within Shoreline Jurisdiction
- b. Parcel wholly within Shoreline Jurisdiction
- c. Parcel outside Shoreline Jurisdiction



Shoreline jurisdiction as measured on the horizontal from the ordinary high watermark



slope distance is the measurement on the ground where the shoreline jurisdiction, setback and buffer are established



Development on lot b is not subject to use buffer standards because it is physically separated from buffer by a public right-of-way which is greater than the buffer width.

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

- 2.151 “Shoreline permit” means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by the town of Winthrop pursuant to RCW 90.58.
- 2.152 “Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except
- a. Shorelines of statewide significance;
 - b. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;
- 2.153 “Shorelines of the State” are the total of all "shorelines" and "shorelines of state-wide significance" within the state
- 2.154 “Shorelines of State-wide Significance” in Okanogan County means:
- a. Those lakes, whether natural, artificial or a combination thereof with a surface acreage of one thousand acres or more measured from the ordinary high-water mark.
 - b. Those natural rivers or segments thereof that are downstream of a point where the mean annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers downstream from the first three hundred square miles of drainage area, whichever is longer.
 - c. Those wetlands associated with such water bodies.
- 2.155 “Short subdivision” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership, including any remaining portions of the parent parcel for any lot created through use of the applicable local subdivision code or ordinance.
- 2.156 “Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
- 2.157 “Soft shoreline stabilization” means shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment.
- 2.158 “Solid Waste” means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes,

- swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid, materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.
- 2.159 “Special Event” Any event (excluding those events allowed through the festival permitting process) that happens for more than three (3) consecutive days per event and no more than twice (2) a year.
- 2.160 “Special Event Camping” Any ten (10) or more recreational vehicles, tents, or temporary structures designed for temporary habitation, or any combination thereof, limited to the duration of the special event (whether related to a special event or not) and one (1) week before and one (1) week after.
- 2.161 “Structural shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion, examples include, bulkheads, concrete walls, rip-rap, jetties, groins, breakwaters, stone reinforcement.
- 2.162 “Structure” Anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences or standard roof mounted antennas.
- 2.163 “Subdivision, Long” is the division and redivision of land into five (5) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, as further defined by the municipal or tribal government with jurisdiction.
- 2.164 “Substantial accessory use facilities” Substantial accessory including but not limited to rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas associated with recreational development.
- 2.165 “Substantial development” shall mean any development of which the total cost or fair market value exceeds five thousand seven hundred eighteen dollars (\$5,718) or dollar value as amended by the State of Washington Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to

the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The uses and activities listed below shall not be considered substantial developments for the purpose of this chapter. All development, including the uses and activities listed below, is subject to Tribal Historic and Cultural Office regulations in accordance with the Tribal Cultural Artifacts Code.

- a. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
- b. Construction of the normal protective bulkhead common to single family residences;
- c. Emergency construction necessary to protect property from damage by the elements;
- d. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- e. Construction or modification of navigational aids such as channel markers and anchor buoys;
- f. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;
- g. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

- h. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;
 - i. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
 - j. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;
 - k. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - 1. The activity does not interfere with the normal public use of the surface waters;
 - 2. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - 3. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - 4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
 - 5. The activity is not subject to the permit requirements of RCW 90.58.550;
 - l. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW.
- 2.166 “Substantially degrade” means cause significant ecological impact.
- 2.167 “Temporary” means having a specific, short-term duration. (See Seasonal).
- 2.168 “Temporary sign” means a sign not intended to be permanently installed.
- 2.169 “Temporary Use” means a use that is limited in scope, duration, and frequency.
- 2.170 “Upland”, when used as an adjective, means outside of the shoreline area.

- 2.171 “Uplands” means those lands outside of the shoreline area and not under shoreline jurisdiction.
- 2.172 “Urban Growth Areas” or “Future Service Area” means a regional boundary, set in an attempt to control urban sprawl by encouraging that the area inside the boundary be used for higher density urban development and the area outside is used for lower density development. “Use” means the purpose for which land or a structure is primarily designed, arranged or intended, or for which it is primarily occupied or maintained.
- 2.173 “Variance” An adjustment in the application of the bulk, height and setback regulations of the shoreline master program to a particular piece of property, in a situation where the property, because of special circumstances found to exist on the land, is deprived as a result of the imposition of the shoreline regulations of privileges commonly enjoyed by other properties in the same vicinity and shoreline designation. A variance shall be limited to only that adjustment necessary to remedy the disparity in privilege. A variance shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone and subject to the same restrictions. Economic hardship is not grounds for a variance.
- 2.174 “Vegetation conservation” includes activities to prevent the loss of plant communities that contribute to the ecological functioning of shoreline areas. Vegetation conservation deals with the protection of existing diverse plant communities along the shorelines, aquatic weed control, and the restoration of altered shorelines by reestablishing natural plant communities as a dynamic system that stabilizes the land from the effects of erosion.
- 2.175 “Visual public access” see public access.
- 2.176 “Wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.
- 2.177 “Water-dependent use” means a use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include marinas, water intake

systems and sewer outfalls.

- 2.178 “Water-enjoyment use” means a recreational or similar use facilitating public access to the shoreline as a primary character of the use; or, a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of use and which, through location, design and operation assures the public’s ability to enjoy physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline oriented space within the project must be devoted to the specific aspects of the use that foster enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to shorelines of the state; and general water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts, and mixed use commercial; PROVIDED that such uses conform to the above water-enjoyment requirements and the provisions of the Master Program.
- 2.179 “Water-oriented use” means any one or combination of water-dependent, water-related or water-enjoyment uses.
- 2.180 “Water quality” means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.
- 2.181 “Water-related use” means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a shoreline location. Water-related uses may include fish hatcheries.
- 2.182 “Woody Debris” means all wood naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.

Words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall" is mandatory and not permissive.

Definitions for terms requiring definitions not found herein shall be determined from the following sources, and if a conflict should arise between sources, such definition shall be established in the following priority:

- 1) RCW 90.58, WAC 173-26, WAC 173-27, WAC 173-22
- 2) Black's Law Dictionary by Henry Campbell Black, 3rd Edition, Publisher's Editorial Staff, St. Paul, West Publishing Company 1933, and subsequent

- amendments thereto.
- 3) Webster's New Collegiate Dictionary, G. & C. Merriam Company, Springfield, Massachusetts, U.S.A., and subsequent amendments thereto.