

City of Prosser, WA  
601 7<sup>th</sup> Street  
Prosser, WA 99350

CITY COUNCIL  
REGULAR MEETING AGENDA  
7:00 P.M.  
TUESDAY, JUNE 24, 2014

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CITIZEN PARTICIPATION

5. MAYOR AND CITY COUNCIL REPORTS AND COMMENTS

- a) **Mid-Columbia Library Quarterly Report** (*Katy McLaughlin, Prosser Branch Manager*)
- b) **Possible Discussion of I-502** (*Mayor Warden*)

6. CONSENT AGENDA

- a. Approve Payment of Payroll Checks Nos. 600072 through 600074 in the Amount of \$1,627.87 and Direct Deposits in the Amount of \$12,137.98, for the Period Ending June 24, 2014 ..... *Page 4*
- b. Approve Maintenance Contract with Abadan for Konica Minolta Bizhub C25 Contract..... *Page 6*
- c. Approve Payment of Claim Checks Nos. 10782 through 10835, in the Amount of \$152,161.06, and Electronic Payments in the Amount of \$26,427.75, for the Period Ending June 24, 2014..... *Page 9*
- d. Approve Revised DWSRF Invoice Voucher Request No. 4 in the Amount of \$13,991.70 for the Zone 2.5 Water Supply Improvements Project and Authorize the Mayor to Sign the Documents ..... *Page 19*
- e. Approve Interagency Agreement No. K2853 between the City of Prosser and Department of Enterprise Services and Authorize the Mayor to Sign the Documents ..... *Page 29*

*The first Ordinance passed will be Ordinance 14-2896  
The first Resolution passed will be Resolution 14-1460*

**7. PUBLIC HEARINGS**

**a.) Water Use Efficiency Goals**

- ~ Open Public Hearing*
- ~Receive Citizen Comments*
- ~Close Public Hearing*

**b.) Shoreline Master Program**

- ~ Open Public Hearing*
- ~Receive Citizen Comments*
- ~Close Public Hearing*

**c.) Updates to the Comprehensive Plan and Land Use Map**

- ~ Open Public Hearing*
- ~Receive Citizen Comments*
- ~Close Public Hearing*

**8. COUNCIL ACTION**

**a.) Review RESOLUTION Approving the Water Use Efficiency Goals..... Page 42**

**RECOMMENDATION:** Adopt RESOLUTION 14-\_\_\_\_\_ approving the Water Use Efficiency Goals.

**b.) Review of two Proposed ORDINANCES related to the Shoreline Master Program ..... Page 48**

**MOTION #1:** Adopt ORDINANCE 14-\_\_\_\_\_ Repealing the Existing Shoreline Master Program Contained in Prosser Municipal Code Chapter 16.04, adopting a New Shoreline Master Program and adopting Shoreline Designation Maps.

**MOTION #2:** Adopt ORDINANCE 14-\_\_\_\_\_ Amending Prosser Municipal Code Sections 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, and 16.60.040 of the City’s Critical Areas Ordinance to make it Consistent with the City’s Shoreline Master Program

**c.) Review of ORDINANCE related to the Comprehensive Plan and Land Use Map..... Page 185**

**RECOMMENDATION:** Adopt ORDINANCE 14-\_\_\_\_\_. Modifying the City of Prosser Comprehensive Plan and Land Use Map.

*The first Ordinance passed will be Ordinance 14-2896  
The first Resolution passed will be Resolution 14-1460*

**9. COUNCIL DISCUSSION**

a.) **Non-Union Salary Study Review** (*Mayor Warden*)

**10. EXECUTIVE SESSION**

**RCW 42.30.140(4)(a)** Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or **(b)**, that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

**11. ADJOURNMENT**

*The first Ordinance passed will be Ordinance 14-2896  
The first Resolution passed will be Resolution 14-1460*

**CITY OF PROSSER, WASHINGTON**

**AGENDA BILL**

<b>Agenda Title:</b> Approve payment of payroll check nos. 600072 through 600074 in the amount of \$1,627.87 and direct deposits in the amount of \$12,137.98 for the period ending June 24, 2014		<b>Meeting Date:</b> June 24, 2014 Regular Meeting	
<b>Department:</b> Finance	<b>Director:</b> Regina Mauras	<b>Contact Person:</b> Toni Yost	<b>Phone Number:</b> (509) 786-2332
<b>Cost of Proposal:</b> \$14,311.85		<b>Account Number:</b> Various	
<b>Amount Budgeted:</b> Various amounts in salaries, wages, and benefits.		<b>Name and Fund#</b> Various	
<b>Reviewed by Finance Department:</b>  RM			
<b>Attachments to Agenda Packet Item:</b>  1. Payroll Check Register			
<b>Summary Statement:</b> Payroll check nos. 600072 through 600074 in the amount of \$1,627.87 and direct deposits in the amount of \$12,137.98 for the period ending June 24, 2014.			
<b>Consistent with or Comparison to:</b>  EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL			
<b>Recommended City Council Action/Suggested Motion:</b>  Approve payment payroll check nos. 600072 through 600074 in the amount of \$1,627.87 and direct deposits in the amount of \$12,137.98 for the period ending June 24, 2014			
<b>Reviewed by Department Director:</b>  Regina Mauras  Date: 6-19-2014	<b>Reviewed by City Attorney:</b>  N/A  Date:	<b>Approved by Mayor:</b>  Not Available  Date:	
<b>Today's Date:</b>  June 19, 2014	<b>Revision Number/Date:</b>	<b>File Name and Path:</b>	

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

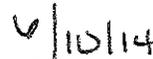
06/13/2014 To: 06/13/2014

Time: 13:21:24 Date: 06/10/2014  
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo	
2568	06/13/2014	Payroll	1	EFT		138.52	June Draw	
2569	06/13/2014	Payroll	1	EFT		704.72	June Draw	
2570	06/13/2014	Payroll	1	EFT		1,015.85	June Draw	
2571	06/13/2014	Payroll	1	EFT		554.10	June Draw	
2572	06/13/2014	Payroll	1	EFT		1,617.98	June Draw	
2573	06/13/2014	Payroll	1	EFT		642.90	June Draw	
2577	06/13/2014	Payroll	1	EFT		554.10	June Draw	
2578	06/13/2014	Payroll	1	EFT		595.45	June Draw	
2579	06/13/2014	Payroll	1	EFT		1,371.50	June Draw	
2580	06/13/2014	Payroll	1	EFT		689.22	June Draw	
2581	06/13/2014	Payroll	1	EFT		1,545.63	June Draw	
2582	06/13/2014	Payroll	1	EFT		1,556.82	June Draw	
2583	06/13/2014	Payroll	1	EFT		1,151.19	June Draw	
2574	06/13/2014	Payroll	1	600072		411.75	June Draw	
2575	06/13/2014	Payroll	1	600073		1,155.67	June Draw	
2576	06/13/2014	Payroll	1	600074		606.45	June Draw	
							514 Financial, Recording & Elections	2,561.48
							521 Law Enforcement	6,256.07
							524 Protective Inspections	744.97
							001 General Fund	9,562.52
							534 Water Utilities	3,510.98
							403 Water Fund	3,510.98
							535 Sewer	1,238.35
							407 Sewer Fund	1,238.35
							<u>14,311.85</u> Payroll:	14,311.85



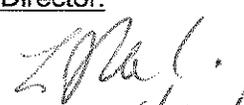
Signature

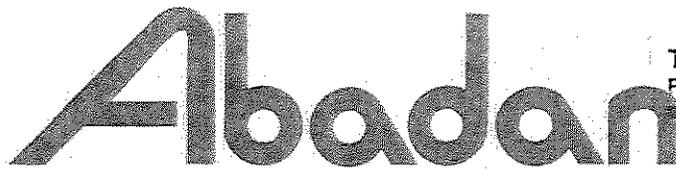


Date

CITY OF PROSSER, WASHINGTON

**AGENDA BILL**

<u>Agenda Title:</u> Approve Maintenance Contract with Abadan for Konica Minolta Bizhub C25 Copier.		<u>Meeting Date:</u> June 24, 2014 Regular Meeting	
<u>Department:</u> Public Works	<u>Director:</u> L.J. DaCorsi	<u>Contact Person:</u> L.J. DaCorsi	<u>Phone Number:</u> (509) 786-7300
<u>Cost of Proposal:</u> Approximately \$300 Annually		<u>Account Number:</u> 403-534-80-48	
<u>Amount Budgeted:</u> Approximately \$300 Annually		<u>Name and Fund#:</u> 403 Water Fund	
<u>Reviewed by Finance Department:</u>  R Mouras			
<u>Attachments to Agenda Packet Item:</u>  1. Maintenance Contract with Abadan for Konica Minolta Bizhub C25			
<u>Summary Statement:</u>  Recently a copier was purchased from Abadan Reprographics for the Water Treatment Plant as a replacement for their current copier that is no longer operational. In the past, the City has entered into maintenance contracts with Abadan to cover service calls, along with parts, labor, as well as supplies for each copier system. The maintenance contract for the Konica Bizhub C25 copier will be for a period of one year.			
<u>Consistent with or Comparison to:</u>  EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL			
<u>Recommended City Council Action/Suggested Motion:</u>  Move to approve the maintenance contract with Abadan for Konica Minolta Bizhub C25 copier.			
<u>Reviewed by Department Director:</u>   Date: 6/20/14	<u>Reviewed by City Attorney:</u>   Date: 6/20/14	<u>Approved by Mayor:</u>  NOT Available  Date:	
<u>Today's Date:</u> June 9, 2014	<u>Revision Number/Date:</u>	<u>File Name and Path:</u>	



THIS IS NOT AN INVOICE  
Please sign, make copy  
and return original

Clearly the best...

### MAINTENANCE CONTRACT

New  Renewal  Revision

CITY OF PROSSER  
601 7<sup>TH</sup> STREET  
PROSSER WA 99350

Installation Date: 05/22/2014

Contract Effective: 05/22/2014

Contact: \_\_\_\_\_

Equipment Location: \_\_\_\_\_

Fax#: \_\_\_\_\_

E-Mail #: \_\_\_\_\_

For an annual, quarterly or monthly base charge plus overage charges, if any, our factory trained personnel will render service calls during regular business hours on the equipment listed below for a period of 12 months in accordance with the terms and conditions set forth on this page.

Model Number	Serial Number	Beginning Meter	BILLING: <input type="checkbox"/> ANNUAL <input type="checkbox"/> QUARTERLY <input type="checkbox"/> MONTHLY		
			Copy Allowance	Base Charge (in advance)	Charge Per Copy (in arrears) <input type="checkbox"/> Overage <input type="checkbox"/> All Copies
C25	A2YF011004655		1250	\$ 18.75	.015
C25	A2YF011004655		N/A	N/A	.1

This agreement covers service calls during normal working hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays. Includes parts, labor, developer, staples, toner and all other consumable supply items unless specifically listed.

Please see terms and conditions set forth on the reverse side of this agreement.

SERVICE E-MAIL [servicecall@abadantc.com](mailto:servicecall@abadantc.com)

METER READ E-MAIL [meters@abadantc.com](mailto:meters@abadantc.com)

Approved by Abadan:

Customer Acceptance:

\_\_\_\_\_  
Service Manager

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Abadan agrees to perform the maintenance service with respect to equipment in accordance with the following terms and conditions:**

1. Only authorized Abadan personnel may make modifications to this Agreement. Any such changes will be preceded by a 30 days written notice to the customer.
2. This Agreement is subject to acceptance only by an authorized representative of Abadan. The Customer hereby waives notice of acceptance.
3. The equipment must be in good condition on the commencement date of this Agreement. Abadan will charge for parts and labor required to bring the equipment up to Abadan standards unless covered under any applicable warranties or a continuous maintenance Agreement; this will be in addition to the price set forth on the reverse side of this Agreement.
4. This Agreement will renew automatically for successive annual terms unless the Customer notifies Abadan in writing thirty (30) days prior to anniversary date. Abadan retains the right to increase rates each annual renewal period without notice to the Customer.
5. The Customer agrees to provide Space, power, Network connections and other requirements as specified by the manufacturer for ideal operation of equipment.
6. Customer acknowledges that manufacturer's limit parts production on aged equipment. In the event that a part cannot be obtained to repair the equipment, this Agreement shall become null and void.
7. This Agreement does not include: delivery, moving, or installation charges of the equipment or any major modifications to the equipment.
8. During the term hereof, Abadan will repair or replace in accordance with the terms and conditions of this Agreement and any part of the Equipment, which becomes unserviceable due to normal usage (other than consumable supplies). Replacement parts will be furnished on an exchange basis and will be new, reconditioned, or used; all part removed due to replacement will become the property of Abadan. Maintenance service provided by Abadan under this Agreement does not include the following:
  - A. Repairs resulting from misuse (including without limitation improper voltage or use of supplies that do not conform to the manufacturer's specifications).
  - B. Repairs made necessary by service performed by persons other than Abadan.
  - C. Removable cassette, copy cabinet, exit trays, or any item not related to the mechanical or electrical operation of the equipment.
  - D. Consumable supplies such as paper, staples, drum cartridges, developer, toner, or masters (unless otherwise noted on the reverse side of this maintenance Agreement).
  - E. Repairs and or service calls resulting from attachments not purchased from Abadan.
  - F. Any software, system support or related connectivity, unless specified in writing.
9. Abadan's regular service hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays.
10. This Agreement extends only to the original Customer and is non-transferable. If the equipment is moved beyond Abadan's service zones this Agreement shall be deemed terminated.
11. Customer agrees to pay invoices promptly. Should the Customer be delinquent for more than thirty (30) days, Abadan at its option may cancel this Agreement without notice. Customer agrees to pay a finance charge of 1-1/2% per month on any past due balance. Further, Customer agrees to pay all costs of collection including reasonable attorney's fees, whether suit be brought or not, incurred by Abadan in collecting any past due balance or recovering any equipment.
12. Customer will provide to Abadan true and accurate copy counter (meter) readings at monthly/quarterly/annual intervals in any reasonable manner requested by Abadan for the purpose of maintenance billing. All copies in excess of the amount included in the base charge of the Agreement are subject to excess copy charges.
13. Customer agrees that in the event Abadan does not receive current monthly/quarterly/annual copy counts, the Customer will receive a billing for the base amount and/or an estimated bill based on previous usage history. The next sequential billing will be adjusted for actual copies run for the previous and current billing periods.
14. If the Customer makes an alteration, attaches a device, or utilizes a supply item that, in Abadan's judgment, increases the cost of service, Abadan will either propose an additional service charge or request the equipment be returned to its standard configuration or purpose and that use of the supply item be discontinued. If, within five (5) days of such proposal or request, the Customer does not remedy the problem or agree in writing to do so immediately, the Customer shall be in default of its obligation to Abadan and Abadan may withhold maintenance service from the equipment. If Abadan believes that an alternation, attachment, or supply item affects the safety of Abadan personnel or equipment users, Abadan shall notify the Customer of the problem and may withhold maintenance until the problem is remedied.
15. If the Customer requests that the Agreement be terminated prior to the end of the Agreement term the Customer will be give no refund or credit on early termination of the Agreement. In order to request early termination the customer is required to submit a thirty (30) day written notice of their intention to terminate the Agreement. Upon receipt of the written notice Abadan will send out a final invoice to the customer and contract will be terminated upon receipt of the final payment.
16. Disclaimer of Implied Warranties and Limitations of Liability:
  - A. Abadan disclaims the implied warranty of fitness for particular purpose following the expiration of any express warranty pertaining to equipment. Abadan disclaims the implied warranty of merchantability.
  - B. Abadan shall not be liable for indirect, incidental, or consequential damages, such as loss of use, revenues, or profit.

**CITY OF PROSSER, WASHINGTON**  
**AGENDA BILL**

**Agenda Title:** Approve payment of claim check nos. 10782 through 10835, in the amount of \$152,161.06 and Electronic Payments in the amount of \$26,427.75 for the period ending June 24, 2014.

**Meeting Date:**  
June 24, 2014  
Regular Meeting

**Department:**  
Finance

**Director:**  
Regina Mauras

**Contact Person:**  
Toni Yost

**Phone Number:**  
(509) 786-2332

**Cost of Proposal:**  
\$178,588.81

**Account Number:**  
See Attached

**Amount Budgeted:**  
See 2014 budget for each item listed.

**Name and Fund#**  
See Attached

**Reviewed by Finance Department:**

*R Mauras*

**Attachments to Agenda Packet Item:**

1. Check Register # 10697 through 10706 and 10708 through 10781

**Summary Statement:**

Check Payments	Amount		
10782 through 10835	\$152,161.06		
<b>Electronic Payments</b>			
	<b>Amount</b>		
IRS Federal Taxes	\$4,406.34	CMS	\$20.55
American West Bank	\$8.08	Wa Dept of Revenue	\$13,834.27
Chase	\$639.06	Modern Payments	\$11.05
WA Dept of Licensing	\$42.00	WA Trust Bank	\$7,466.40

**Consistent with or Comparison to:**

City's policy to pay bills in a timely manner.

**Recommended City Council Action/Suggested Motion:**

Approve payment of 10782 through 10835, in the amount of \$152,161.06 and Electronic Payments in the amount of \$26,427.75 for the period ending June 24, 2014.

**Reviewed by Department Director:**

*Regina Mauras*

**Date:** *6/19/2014*

**Reviewed by City Attorney:**

N/A

**Date:**

**Approved by Mayor:**

*Not Available*

**Date:**

**Today's Date:**  
June 19, 2014

**Revision Number/Date:**

**File Name and Path:**

CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/13/2014 To: 06/13/2014

Time: 14:00:16 Date: 06/10/2014  
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2588	06/13/2014	Payroll	1	EFT	Irs Federal Taxes	4,406.34	941 Deposit For 06/13/2014 - 06/13/2014
			514		Financial, Recording & Elections	221.85	
			521		Law Enforcement	558.83	
			524		Protective Inspections	65.03	
			580		Non Expenditures	3,076.15	
			001		General Fund	3,921.86	
			534		Water Utilities	323.83	
			403		Water Fund	323.83	
			535		Sewer	160.65	
			407		Sewer Fund	160.65	
						4,406.34	Payroll: 4,406.34



Signature

6/10/14

Date

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2806	06/24/2014	Claims	1	EFT	American West Bank	8.08	Analysis Charge
					001 - 514 23 49 000 - Miscellaneous	8.08	Analysis Charge
2807	06/24/2014	Claims	1	EFT	Chase	88.79	Non-UB Credit Card Charges
					001 - 514 30 49 000 - Miscellaneous	26.64	Non-UB Credit Card Charges
					403 - 534 80 49 000 - Miscellaneous	6.22	Non-UB Credit Card Charges
					448 - 537 80 49 000 - Miscellaneous	7.98	Non-UB Credit Card Charges
					001 - 576 20 49 001 - Miscellaneous	47.95	Non-UB Credit Card Charges
2808	06/24/2014	Claims	1	EFT	Chase	550.27	UB Credit Card Charges
					403 - 534 80 49 000 - Miscellaneous	137.57	UB Credit Card Charges
					407 - 535 80 49 000 - Miscellaneous	137.57	UB Credit Card Charges
					448 - 537 80 49 000 - Miscellaneous	137.56	UB Credit Card Charges
					403 - 539 20 49 000 - Miscellaneous	137.57	UB Credit Card Charges
2809	06/24/2014	Claims	1	EFT	Complete Merchant Solutions	20.55	Credit Card Charges
					403 - 534 80 49 000 - Miscellaneous	5.14	Credit Card Charges
					407 - 535 80 49 000 - Miscellaneous	5.14	Credit Card Charges
					448 - 537 80 49 000 - Miscellaneous	5.13	Credit Card Charges
					403 - 539 20 49 000 - Miscellaneous	5.14	Credit Card Charges
2810	06/24/2014	Claims	1	EFT	Dor Electronic Payments	13,834.27	Excise Taxes
					403 - 534 80 44 000 - External Taxes	6,463.51	Excise Taxes
					407 - 535 80 44 000 - External Taxes	3,267.45	Excise Taxes
					448 - 537 80 44 000 - External Taxes	3,252.36	Excise Taxes
					102 - 542 90 44 000 - External Taxes	5.76	Excise Taxes
					001 - 571 22 44 000 - External Taxes	486.79	Excise Taxes
					001 - 576 20 44 001 - External Taxes	357.24	Excise Taxes
					001 - 576 80 44 000 - External Taxes	1.16	Excise Taxes
2811	06/24/2014	Claims	1	EFT	Modern Payments	11.05	Electronic Check Payments
					403 - 534 80 49 000 - Miscellaneous	2.76	Electronic Check Payments
					407 - 535 80 49 000 - Miscellaneous	2.76	Electronic Check Payments
					448 - 537 80 49 000 - Miscellaneous	2.77	Electronic Check Payments
					403 - 539 20 49 000 - Miscellaneous	2.76	Electronic Check Payments
2812	06/24/2014	Claims	1	EFT	WA Dept Licensing-Cpl	42.00	Concealed Pistol License
					001 - 586 00 01 000 - Concealed Pistol Lic Disburse	42.00	
2813	06/24/2014	Claims	1	EFT	WA Trust Bank	7,466.40	Interim Financing Interest 6/2014
					403 - 594 34 63 002 - Capital Other Improvements-I	7,466.40	Interim Financing Interest 6/2014
2814	06/24/2014	Claims	1	10782	ABC Fire Control	244.76	Hood Cleaning
					001 - 576 80 48 000 - Repairs & Maintenance	244.76	Hood Cleaning
2815	06/24/2014	Claims	1	10783	Abadan Inc	1,643.37	C25 Printer/Copier/Fax; Maintenance Contract - Bizhub 215 - 5/14/14 To 6/13/14; Annex Copy Machine Maintenance; Copy Machine Maintenance-Water Dept
					001 - 514 23 48 000 - Repairs & Maintenance	230.97	Annex Copy Machine Maintenance
					403 - 534 80 35 000 - Small Tools & Minor Equipm	1,353.75	C25 Printer/Copier/Fax
					403 - 534 80 48 000 - Repairs & Maintenance	6.31	Annex Copy Machine Maintenance
					403 - 534 80 48 000 - Repairs & Maintenance	20.31	Copy Machine Maintenance-Water Dept
					407 - 535 80 48 000 - Repairs & Maintenance	12.18	Maintenance Contract - Bizhub 215 - 5/14/14 To 6/13/14
					407 - 535 80 48 000 - Repairs & Maintenance	6.31	Annex Copy Machine Maintenance
					448 - 537 80 48 000 - Repairs & Maintenance	6.31	Annex Copy Machine Maintenance
					403 - 539 20 48 000 - Repairs & Maintenance	6.31	Annex Copy Machine Maintenance
					102 - 542 90 48 000 - Repairs & Maintenance	0.92	Annex Copy Machine Maintenance

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2816	06/24/2014	Claims	1	10784	Jeffrey & Wendy Appelgate	79.52	Refund inactive customer credit balance
					403 - 343 41 00 000 - Water Revenues	-79.52	
2817	06/24/2014	Claims	1	10785	Atomic Screen Printing	529.46	PAC Manager Shirts; PAC Staff Uniforms
					001 - 576 20 21 000 - Uniforms	188.31	PAC Manager Shirts
					001 - 576 20 21 000 - Uniforms	341.15	PAC Staff Uniforms
2818	06/24/2014	Claims	1	10786	Autozone	3.83	1 NGK Standard Spark
					407 - 535 80 31 000 - Office & Operating Supplies	3.83	1 NGK Standard Spark
2819	06/24/2014	Claims	1	10787	Benton Franklin Dist Health	168.00	Drinking Water Bacteria Testing 5/2014
					403 - 534 80 41 000 - Professional Services	168.00	Drinking Water Bacteria Testing 5/2014
2820	06/24/2014	Claims	1	10788	Benton PUD	27,415.84	Electric Bill-WCR; Electric Bill
					001 - 518 31 47 000 - Public Utility Services	964.15	
					403 - 534 80 47 000 - Public Utility Services	11,183.89	
					407 - 535 80 47 000 - Public Utility Services	8,790.49	
					403 - 539 20 47 000 - Public Utility Services	113.71	
					102 - 542 63 47 000 - Public Utility Services	521.90	Electric Bill-WCR
					102 - 542 63 47 000 - Public Utility Services	3,522.80	
					102 - 542 90 47 000 - Public Utility Services	286.15	
					001 - 569 21 47 000 - Public Utility Services	422.76	
					001 - 572 50 47 000 - Public Utility Services	443.32	
					001 - 576 20 47 000 - Public Utility Services	814.04	
					001 - 576 80 47 000 - Public Utility Services	352.63	
2821	06/24/2014	Claims	1	10789	Bilco	1,215.79	Access Hatch
					403 - 534 80 31 000 - Office & Operating Supplies	1,001.78	Access Hatch
					403 - 534 80 31 000 - Office & Operating Supplies	214.01	Access Hatch
2822	06/24/2014	Claims	1	10790	Bleyhl Farm Service Gas	4,967.26	Fuel-PW And City Hall; PD Fuel Charges
					001 - 511 60 32 000 - Fuel	85.84	Fuel-PW And City Hall
					001 - 521 20 32 000 - Fuel Consumed	3,579.43	PD Fuel Charges
					001 - 524 20 32 000 - Fuel Consumed	86.28	Fuel-PW And City Hall
					407 - 535 80 32 000 - Fuel Consumed	1,215.71	Fuel-PW And City Hall
2823	06/24/2014	Claims	1	10791	Bleyhl Farm Service Inc	989.37	Head Trimmer, Line Trimmer; Chevron Delo 400 15-40 LE 55G
					102 - 542 90 31 000 - Office & Operating Supplies	938.72	Chevron Delo 400 15-40 LE 55G
					001 - 576 80 31 000 - Office & Operating Supplies	50.65	Head Trimmer, Line Trimmer
2824	06/24/2014	Claims	1	10792	Blumenthal	164.49	Sew Emblem, Black Boarder-Colvig
					001 - 521 20 21 000 - Uniforms & Equipment	164.49	Sew Emblem, Black Boarder-Colvig
2825	06/24/2014	Claims	1	10793	CK Home Comfort Systems	727.06	Repair Freon Leak
					407 - 535 80 48 000 - Repairs & Maintenance	727.06	Repair Freon Leak
2826	06/24/2014	Claims	1	10794	Centurylink	2,529.34	Telephone Bill
					001 - 518 31 42 000 - Communications	1,135.69	Telephone Bill
					403 - 534 80 42 000 - Communications	385.69	Telephone Bill
					407 - 535 80 42 000 - Communications	355.42	Telephone Bill
					448 - 537 80 42 000 - Communications	93.54	Telephone Bill
					403 - 539 20 42 000 - Communications	93.54	Telephone Bill
					102 - 542 90 42 000 - Communications	258.42	Telephone Bill
					102 - 543 30 42 102 - Communication	93.54	Telephone Bill
					001 - 576 20 42 000 - Communications	113.50	Telephone Bill

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014

Page: 3

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2827	06/24/2014	Claims	1	10795	Cook's True Value	675.14	Fasteners, Flat; BRS Tee, Close BRSSTD Nipple, Adapter; 3V Lithium Battery; Offset Wheel; 1 1/2" Wht Sxs Coupling; 1 1/2x3/4 Redu Bushing; 16 Oz Blu Pvc Cement; 3/4x10 Sch40 Pvc Pipe; 100 Oz Liq Car W
					001 - 518 31 31 000 - Office & Operating Supplies	23.04	Liquid Super Glue, Halo Bulb
					001 - 521 20 31 000 - Office & Operating Supplies	22.71	3V Lithium Battery
					403 - 534 80 31 000 - Office & Operating Supplies	33.01	100 Oz Liq Car Wash; 60" Vehicle Wash Brush
					403 - 534 80 31 000 - Office & Operating Supplies	5.95	2.5ml Threadlocker
					403 - 534 80 31 000 - Office & Operating Supplies	18.39	#5 Scr Extractor, #5 Spir Scr Extractor
					403 - 534 80 31 000 - Office & Operating Supplies	31.71	Galv Nipple, Galv Union
					403 - 534 80 31 000 - Office & Operating Supplies	7.57	TFE Paste/Teflon
					403 - 534 80 31 000 - Office & Operating Supplies	4.65	Galv Nipple
					403 - 534 80 31 000 - Office & Operating Supplies	6.58	Fem Adapter, Galv Nipple
					407 - 535 80 31 000 - Office & Operating Supplies	103.40	Fasteners, Flat
					407 - 535 80 31 000 - Office & Operating Supplies	10.38	11 Oz Starting Fluid
					407 - 535 80 31 000 - Office & Operating Supplies	7.56	3.2 Oz 2 Cycle Syn Eng Oil
					403 - 539 20 31 000 - Office & Operating Supplies	14.07	Galv Pipe
					102 - 542 90 31 000 - Office & Operating Supplies	81.21	3 Gal Pro Pump Sprayer
					102 - 542 90 31 000 - Office & Operating Supplies	8.11	Faseners, Apple Spr Refill
					102 - 542 90 31 000 - Office & Operating Supplies	10.28	Angled Broom
					001 - 572 50 31 000 - Office & Operating Supplies	2.48	Full Circ Fan Bubbler
					001 - 576 20 31 000 - Office & Operating Supplies	25.97	Offset Wheel
					001 - 576 20 31 000 - Office & Operating Supplies	25.97	8x1.75 Stl Offset Wheel
					001 - 576 20 31 000 - Office & Operating Supplies	13.83	Lysol; MagicEraser; Plastic Pail (PAC Cleaning Supplies)
					001 - 576 20 31 000 - Office & Operating Supplies	64.21	BBQ Grill Cleaner
					001 - 576 20 31 000 - Office & Operating Supplies	14.23	Faseners, Apple Spr Refill
					001 - 576 80 31 000 - Office & Operating Supplies	51.17	BRS Tee, Close BRSSTD Nipple, Adapter
					001 - 576 80 31 000 - Office & Operating Supplies	38.40	1 1/2" Wht Sxs Coupling; 1 1/2x3/4 Redu Bushing; 16 Oz Blu Pvc Cement; 3/4x10 Sch40 Pvc Pipe
					001 - 576 80 31 000 - Office & Operating Supplies	31.71	Galv Nipple, Galv Union
					001 - 576 80 31 000 - Office & Operating Supplies	17.09	Diagonal Pliers, Blue Wire Connector
					001 - 576 80 31 000 - Office & Operating Supplies	1.46	Tubing
2828	06/24/2014	Claims	1	10796	DB Secure Shred	116.90	Destruction Services 5/14
					001 - 514 30 41 000 - Professional Services	70.14	Destruction Services 5/14
					001 - 521 20 41 000 - Professional Services	46.76	Destruction Services 5/14
2829	06/24/2014	Claims	1	10797	Denchel's Ford Country	1,003.95	Repairs To 07 Crown Vic;; Repairs To 08 Ford Inceptor; Repairs To 13 SUV; Repairs To 13 Ford Sedan; Repairs To 07 Crown Vic
					001 - 521 20 48 000 - Repairs & Maintenance	874.31	Repairs To 07 Crown Vic;
					001 - 521 20 48 000 - Repairs & Maintenance	18.94	Repairs To 08 Ford Inceptor
					001 - 521 20 48 000 - Repairs & Maintenance	37.37	Repairs To 13 SUV
					001 - 521 20 48 000 - Repairs & Maintenance	37.37	Repairs To 13 Ford Sedan
					001 - 521 20 48 000 - Repairs & Maintenance	35.96	Repairs To 07 Crown Vic
2830	06/24/2014	Claims	1	10798	Elliot Tire Service	670.06	Tire Vehcle #082; Tire Vehcle #133
					001 - 521 20 48 000 - Repairs & Maintenance	118.78	Tire Vehcle #082
					001 - 521 20 48 000 - Repairs & Maintenance	551.28	Tire Vehcle #133
2831	06/24/2014	Claims	1	10799	HD Fowler, Co	143.36	Romac 702 Galv Compression Coupling
					403 - 534 80 31 000 - Office & Operating Supplies	143.36	Romac 702 Galv Compression Coupling

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 4

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2832	06/24/2014	Claims	1	10800	Holiday Inn Express-Spokane	596.52	Hotel Stay-Hellyer; Hotel Stay-Markus
					001 - 521 20 43 000 - Travel	99.42	Hotel Stay-Hellyer
					001 - 521 20 43 000 - Travel	497.10	Hotel Stay-Markus
2833	06/24/2014	Claims	1	10801	Huibregtse, Louman & Assoc	11,514.50	Old Inland Empire Hwy; Zone 2.5 Water Supply Improvements; 2014 General Services
					102 - 542 90 41 000 - Professional Services	887.00	2014 General Services
					420 - 594 34 41 420 - Professional Services	4,933.50	Zone 2.5 Water Supply Improvements
					302 - 595 10 60 000 - Engineering	5,694.00	Old Inland Empire Hwy
2834	06/24/2014	Claims	1	10802	The Janitor's Closet	390.38	Tissue 2/ply; Smart & Clean Soap; Wave Urinal Screen Orange
					001 - 576 80 31 000 - Office & Operating Supplies	390.38	Tissue 2/ply; Smart & Clean Soap; Wave Urinal Screen Orange
2835	06/24/2014	Claims	1	10803	Jubilee Ministry of Prosser	145.53	Refund inactive customer credit balance
					409 - 586 00 00 000 - Utility Deposits Refunded	145.53	
2836	06/24/2014	Claims	1	10804	Language Line Services Inc	58.68	Over The Phone Interpretation 5/14
					001 - 521 20 41 000 - Professional Services	58.68	Over The Phone Interpretation 5/14
2837	06/24/2014	Claims	1	10805	Leaf	413.33	Front Desk Copy Machine
					001 - 514 23 45 000 - Operating Rentals & Leases	153.50	Front Desk Copy Machine
					403 - 534 80 45 000 - Operating Rentals & Leases	6.54	Front Desk Copy Machine
					407 - 535 80 45 000 - Operating Rentals & Leases	6.54	Front Desk Copy Machine
					448 - 537 80 45 000 - Operating Rentals & Leases	6.54	Front Desk Copy Machine
					403 - 539 20 45 000 - Operating Rentals & Leases	6.54	Front Desk Copy Machine
					102 - 542 90 45 000 - Operating Rentals & Leases	0.06	Front Desk Copy Machine
					001 - 571 22 45 000 - Operating Rentals & Leases	225.27	Front Desk Copy Machine
					001 - 576 20 45 000 - Operating Rentals & Leases	8.34	Front Desk Copy Machine
2838	06/24/2014	Claims	1	10806	The Markets LLC	50.69	Super Chill Water; Apple Juice; Eed Starlights; Equaline Diphedr ; J&J Steripad And Band Aids (diabetic, Asthma, And Allergy Emergency); Super Chill Water
					407 - 535 80 31 000 - Office & Operating Supplies	16.68	Super Chill Water
					407 - 535 80 31 000 - Office & Operating Supplies	16.68	Super Chill Water
					001 - 576 20 31 000 - Office & Operating Supplies	17.33	Apple Juice; Eed Starlights; Equaline Diphedr ; J&J Steripad And Band Aids (diabetic, Asthma, And Allergy Emergency)
2839	06/24/2014	Claims	1	10807	Mgm Targets	135.86	IPSC Cardboard Targets
					001 - 521 20 31 000 - Office & Operating Supplies	135.86	IPSC Cardboard Targets
2840	06/24/2014	Claims	1	10808	OL Luther Co	524.45	6.96 Tons Of Class G; 2.5 Gals Of Cssi
					403 - 534 80 31 000 - Office & Operating Supplies	524.45	6.96 Tons Of Class G; 2.5 Gals Of Cssi
2841	06/24/2014	Claims	1	10809	Office Depot	1,000.16	Copy Paper; Roll Of Tickets (PAC); Tylenol; Plates; Ink Refill; Cash Drawer; Bar Code Scanner And Credit Card Swiper; Stamp Pad; Planning And Boa Nameplates; Portfolio, Copy Paper, Mailer Bubble, Wall
					001 - 514 23 31 000 - Office & Operating Supplies	20.32	Copy Paper, Plate, Ink Refill
					001 - 514 23 31 000 - Office & Operating Supplies	32.46	Planning And Boa Nameplates
					001 - 514 23 31 000 - Office & Operating Supplies	98.95	Portfolio, Copy Paper, Mailer Bubble, Wall File
					001 - 514 23 31 000 - Office & Operating Supplies	81.59	Phone Stand, Folders

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 5

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
			001 - 514 23 31 000		Office & Operating Supplies	20.57	File Sorter
			001 - 514 23 31 000		Office & Operating Supplies	-12.22	Mailbox Storage
			001 - 514 23 31 000		Office & Operating Supplies	16.67	Mailbox Storage, Chest Table
			001 - 514 23 31 000		Office & Operating Supplies	56.29	Paper Storage
			001 - 514 23 31 000		Office & Operating Supplies	32.26	Shelf Organizer
			001 - 514 23 31 000		Office & Operating Supplies	-32.26	Return Shelf Organizer
			001 - 514 23 31 000		Office & Operating Supplies	17.34	Calendar
			001 - 518 31 31 000		Office & Operating Supplies	16.23	Ticket Rolls
			403 - 534 80 31 000		Office & Operating Supplies	11.48	Calculator
			407 - 535 80 31 000		Office & Operating Supplies	11.48	Calculator
			448 - 537 80 31 000		Office & Operating Supplies	11.47	Calculator
			403 - 539 20 31 000		Office & Operating Supplies	11.48	Calculator
			102 - 542 90 31 000		Office & Operating Supplies	11.48	Calculator
			001 - 576 20 31 000		Office & Operating Supplies	10.81	Tylenol
			001 - 576 20 31 000		Office & Operating Supplies	194.93	Cash Drawer
			001 - 576 20 31 000		Office & Operating Supplies	376.72	Bar Code Scanner And Credit Card Swiper
			001 - 576 20 31 000		Office & Operating Supplies	8.54	Stamp Pad
			001 - 576 20 31 000		Office & Operating Supplies	3.57	Portfolio, Copy Paper, Mailer Bubble, Wall File
<b>2842</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10810</b>	<b>Pacific Northern Environmental</b>	<b>143.15</b>	<b>Refund inactive customer credit balance</b>
			403 - 343 41 00 000		Water Revenues	-143.15	
<b>2843</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10811</b>	<b>Platt Electric Company</b>	<b>152.87</b>	<b>L-FSE FLSR020ID</b>
			407 - 535 80 31 000		Office & Operating Supplies	152.87	L-FSE FLSR020ID
<b>2844</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10812</b>	<b>Pocketinet Communications</b>	<b>398.00</b>	<b>3 Mbps Internet Via Fiber (7/14-8/14); Wide Area Network - Point To Point Connections</b>
			001 - 518 88 42 000		Communications	398.00	3 Mbps Internet Via Fiber (7/14-8/14); Wide Area Network - Point To Point Connections
<b>2845</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10813</b>	<b>The Print Guys Inc</b>	<b>403.43</b>	<b>Letter Head</b>
			001 - 514 23 31 000		Office & Operating Supplies	242.08	Letter Head
			403 - 534 80 31 000		Office & Operating Supplies	32.27	Letter Head
			407 - 535 80 31 000		Office & Operating Supplies	32.27	Letter Head
			448 - 537 80 31 000		Office & Operating Supplies	32.27	Letter Head
			403 - 539 20 31 000		Office & Operating Supplies	32.27	Letter Head
			102 - 542 90 31 000		Office & Operating Supplies	32.27	Letter Head
<b>2846</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10814</b>	<b>Prosser Rentals</b>	<b>57.47</b>	<b>Propane</b>
			001 - 576 20 31 000		Office & Operating Supplies	57.47	Propane
<b>2847</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10815</b>	<b>Prosser, City Of</b>	<b>67,111.75</b>	<b>Garbage Utility Taxes; Waste Water Utility Taxes; Water Utility Tax</b>
			403 - 534 80 44 000		External Taxes	28,731.53	Water Utility Tax
			407 - 535 80 44 000		External Taxes	35,171.99	Waste Water Utility Taxes
			448 - 537 80 44 000		External Taxes	3,208.23	Garbage Utility Taxes
<b>2848</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10816</b>	<b>RDO Equipment</b>	<b>1,343.36</b>	<b>Trash Pump</b>
			407 - 535 80 35 000		Small Tools & Minor Equipm	1,343.36	Trash Pump
<b>2849</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10817</b>	<b>Rainwater Water Co</b>	<b>12.00</b>	<b>Water</b>
			407 - 535 80 31 000		Office & Operating Supplies	12.00	Water
<b>2850</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10818</b>	<b>Rotschy Inc</b>	<b>91.17</b>	<b>Refund inactive customer credit balance</b>
			409 - 586 00 00 000		Utility Deposits Refunded	91.17	
<b>2851</b>	<b>06/24/2014</b>	<b>Claims</b>	<b>1</b>	<b>10819</b>	<b>Sentinel Field Services, Inc</b>	<b>16.26</b>	<b>Refund inactive customer credit balance</b>

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 6

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
			403 - 343 90 00 000 - Irrigation Fees & Charges			-16.26	
2852	06/24/2014	Claims	1	10820	Rachel M Shaw	76.25	BLS Annual Partnership; Bi-Pin Qtr Meeting-Mileage
			001 - 514 30 43 000 - Travel			36.04	BLS Annual Partnership
			001 - 514 30 43 000 - Travel			40.21	Bi-Pin Qtr Meeting-Mileage
2853	06/24/2014	Claims	1	10821	Shi International Corp	86.64	30-Pin To USB Cable Of Ipad
			001 - 518 88 31 000 - Office & Operating Supplies				Kingston USB Media Reader
			001 - 518 88 31 000 - Office & Operating Supplies			86.64	Apple Lightning USB Cable
			001 - 518 88 31 000 - Office & Operating Supplies				Apple USB Power Adapter
2854	06/24/2014	Claims	1	10822	Staples Advantage	10.82	Shooting Start Certificate
			001 - 514 23 31 000 - Office & Operating Supplies			10.82	Shooting Start Certificate
2855	06/24/2014	Claims	1	10823	Attn: A/P Stimson Lane LTD	20.15	Refund inactive customer credit balance
			403 - 343 41 00 000 - Water Revenues			-20.15	
2856	06/24/2014	Claims	1	10824	Swana	350.00	SWANA Certification Renewal
			102 - 542 70 49 000 - Total Other Services & Charg			175.00	SWANA Certification Renewal
			001 - 576 80 49 000 - Miscellaneous			175.00	SWANA Certification Renewal
2857	06/24/2014	Claims	1	10825	Tolman Electric	189.53	Service Call Repair Blower Motor
			407 - 535 80 41 000 - Professional Services			189.53	Service Call Repair Blower Motor
2858	06/24/2014	Claims	1	10826	Total Energy Management	771.96	Annual Calibrations
			407 - 535 80 48 000 - Repairs & Maintenance			771.96	Annual Calibrations
2859	06/24/2014	Claims	1	10827	US Bank Na	28.00	Month Maintenance
			001 - 514 23 49 000 - Miscellaneous			28.00	Monthly Maintenance
2860	06/24/2014	Claims	1	10828	Utilities Underground Loc	20.64	Excavation Notification
			403 - 534 80 41 000 - Professional Services			10.32	Excavation Notification
			407 - 535 80 41 000 - Professional Services			10.32	Excavation Notification
2861	06/24/2014	Claims	1	10829	Valley Publishing Co Inc	243.74	Notice Of Public Hearing - Water Use Efficiency Goals; 1 Pen; Ord Summaries 2890-2892; 2014 MRSC Rosters; Sepa Check List - Recreational/ Medical Cannabis Facilities; Notice: Water Use Efficiency Goal
			001 - 514 23 31 000 - Office & Operating Supplies			3.74	Pen
			001 - 514 30 41 000 - Professional Services			75.00	Ord Summaries 2890-2892
			001 - 514 30 41 000 - Professional Services			48.00	2014 MRSC Rosters
			001 - 514 30 41 000 - Professional Services			66.00	Sepa Check List - Recreational/ Medical Cannabis Facilities
			403 - 534 80 41 000 - Professional Services			24.00	Notice Of Public Hearing - Water Use Efficiency Goals
			403 - 534 80 41 000 - Professional Services			27.00	Notice: Water Use Efficiency Goals
2862	06/24/2014	Claims	1	10830	Verizon Wireless	160.04	Building Dept MiFi Card; 4G Mobile Broadband
			001 - 518 88 42 000 - Communications			40.01	Building Dept MiFi Card
			403 - 534 80 42 000 - Communications			60.02	4G Mobile Broadband
			407 - 535 80 42 000 - Communications			60.01	4G Mobile Broadband
2863	06/24/2014	Claims	1	10831	WA Dept Health	816.00	Sanitary Survey
			403 - 534 80 49 000 - Miscellaneous			816.00	Sanitary Survey
2864	06/24/2014	Claims	1	10832	WA Dept Of Commerce	17,719.51	Loan# PW-01-691-052 Payment
			407 - 591 35 78 000 - Intergovernmental Loans			17,037.99	Loan# PW-01-691-052 Payment
			407 - 592 35 83 000 - Interest On Long-Term Exter			681.52	Loan# PW-01-691-052 Payment

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 7

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2865	06/24/2014	Claims	1	10833	WA Dept Of Enterprise Services	3,154.90	#10 Window Envelope; Annual Drinking Water Report - Inset Into Bills; 6/14 Newsletter; Utility Statements- May
					001 - 514 30 41 000 - Professional Services	259.15	6/14 Newsletter
					403 - 534 80 41 000 - Professional Services	90.99	#10 Window Envelope
					403 - 534 80 41 000 - Professional Services	269.67	Annual Drinking Water Report - Inset Into Bills
					403 - 534 80 41 000 - Professional Services	34.55	6/14 Newsletter
					403 - 534 80 41 000 - Professional Services	522.33	Utility Statements- May
					407 - 535 80 41 000 - Professional Services	91.00	#10 Window Envelope
					407 - 535 80 41 000 - Professional Services	34.55	6/14 Newsletter
					407 - 535 80 41 000 - Professional Services	522.33	Utility Statements- May
					448 - 537 80 41 000 - Professional Services	91.00	#10 Window Envelope
					448 - 537 80 41 000 - Professional Services	34.57	6/14 Newsletter
					448 - 537 80 41 000 - Professional Services	522.34	Utility Statements- May
					403 - 539 20 41 000 - Professional Services	90.99	#10 Window Envelope
					403 - 539 20 41 000 - Professional Services	34.55	6/14 Newsletter
					403 - 539 20 41 000 - Professional Services	522.33	Utility Statements- May
					102 - 542 90 41 000 - Professional Services	34.55	6/14 Newsletter
2866	06/24/2014	Claims	1	10834	WA Patrol Budget & Fiscal Srvc	540.00	Background Checks (rec And PAC)
					001 - 571 22 51 000 - Intergov't Professional Serv	190.00	Rec Background Checks
					001 - 576 20 51 000 - Intergov't Professional Serv	350.00	PAC Background Checks
2867	06/24/2014	Claims	1	10835	Walker Construction	125.82	Refund inactive customer credit balance
					403 - 343 41 00 000 - Water Revenues	-125.82	
					511 Legislative	85.84	
					514 Financial, Recording & Elections	1,630.34	
					518 Centralized Services	2,663.76	
					521 Law Enforcement	6,278.46	
					524 Protective Inspections	86.28	
					569 Senior Center	422.76	
					571 Education & Recreation	902.06	
					572 Libraries	445.80	
					576 Park Facilities	4,388.52	
					580 Non Expenditures	42.00	
					<b>001 General Fund</b>	<b>16,945.82</b>	
					542 Streets - Maintenance	6,774.63	
					543 Streets Admin & Overhead	93.54	
					<b>102 Street Fund</b>	<b>6,868.17</b>	
					594 Capital Expenditures	5,694.00	
					<b>302 OIE Improvement Project Fund</b>	<b>5,694.00</b>	
					340 Charges For Goods & Services	384.90	
					534 Water Utilities	52,361.31	
					539 Irrigation And Reclamation	1,071.26	
					594 Capital Expenditures	7,466.40	
					<b>403 Water Fund</b>	<b>61,283.87</b>	
					535 Sewer	53,088.83	
					591 Debt Service - Principal Repayment	17,719.51	
					<b>407 Sewer Fund</b>	<b>70,808.34</b>	

# CHECK REGISTER

City Of Prosser  
MCAG #: 0205

06/24/2014 To: 06/24/2014

Time: 12:37:58 Date: 06/19/2014  
Page: 8

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
			580		Non Expenditures	236.70	
			409		Consumer Utility Deposits Fund	236.70	
			594		Capital Expenditures	4,933.50	
			420		Zone 2.5 Water Supply Improv	4,933.50	
			537		Garbage & Solid Waste	7,412.07	
			448		Garbage Fund	7,412.07	
						<u>174,182.47</u>	
					* Transaction Has Mixed Revenue And Expense Accounts	174,182.47	Claims: 174,182.47

Regina Mauras

Signature

6/19/2014

Date

CITY OF PROSSER, WASHINGTON

**AGENDA BILL**

<b>Agenda Title:</b> Approve Revised Drinking Water State Revolving Fund (DWSRF) Invoice Voucher Request No. 4 in the amount of \$13,991.70 for the Zone 2.5 Water Supply Improvements Project and authorize the Mayor to sign the documents.		<b>Meeting Date:</b> June 24, 2014 Regular Meeting	
<b>Department:</b> Public Works	<b>Director:</b> L.J. DaCorsi	<b>Contact Person:</b> L.J. DaCorsi	<b>Phone Number:</b> (509) 786-2332
<b>Cost of Proposal:</b> Estimated Total Project Cost - \$881,500.00 Revised DWSRF Invoice Voucher Request No. 4 - \$13,991.70		<b>Account Number:</b>  <b>Name and Fund#</b> Zone 2.5 Water Supply Improvements Fund 420	
<b>Amount Budgeted:</b> Funding derived through an approved low-interest loan from the Drinking Water State Revolving Fund (DWSRF)			
<b>Reviewed by Finance Department:</b>  R Maurer			
<b>Attachments to Agenda Packet Item:</b>  <ol style="list-style-type: none"> <li>1. Public Works Board - DWSRF Project Status Report</li> <li>2. WA State Department of Commerce Form A19-1A Voucher Distribution for \$13,991.70 dated 04/01/14 - 05/31/14</li> <li>3. HLA Invoice Number 13109E-005 for \$9,058.20, dated 5/01/2014</li> <li>4. HLA Invoice Number 13109E-006 for \$4,933.50, dated 6/01/2014</li> <li>5. Project Cost To Date Breakdown Sheet, dated 6/10/2014</li> </ol>			
<b>Summary Statement:</b>  <p>The City of Prosser applied for and received 2013 Drinking Water State Revolving Fund (DWSRF) loan monies to construct 4,000 linear feet of new 12" water transmission main from the Water Treatment Plant on SR 22 to the Painted Hills Booster Station. Included in the project is the demolition of the Booster Station and retiring of service of the Painted Hills Reservoir which will no longer be necessary upon project completion. The total original contract amount is \$890,315.00. The project budget is \$881,500.00 and the loan fee is \$8,815.00.</p> <p>Expenses to Date - \$ 52,121.70          Loan Balance - \$29,378.30</p>			

**NOTE:**

(On August 27, 2013, the Prosser City Council approved the contractual agreement between the City of Prosser and the Public Works Board for this project. The funds originate from the U.S. Environmental Protection Agency and are appropriated by the Public Works Board from the Drinking Water Assistance Account (DWSRF). The Board then enters into contract with the City of Prosser to disburse the funds, oversee the loan, and perform other services as defined in the Contract. The City also has contractual obligations that it must adhere to for the life of the loan, which in this case is 24 years. The time of performance for this project is 48 months from the Contract execution date to Project Completion date. Design is currently underway and should be completed in May-June 2014. Construction is tentatively scheduled to commence November 2014 and reach completion by August 2015.)

This Agenda Bill is to approve the Revised DWSRF Invoice Voucher Request No. 4 in the amount of \$13,991.70 for engineering services to date on this project and authorize the Mayor to sign the documents. This cost includes Project Administration, Design, Final Plans and Specifications. This portion of the project is 6% complete.

As with standard procedures for other City utility projects funded by state and federal agencies, Council must approve the pay voucher requests before the funding agency can release any monies.

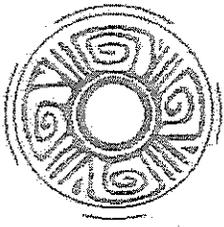
Consistent with or Comparison to:

EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL

Recommended City Council Action/Suggested Motion:

Approve Revised Drinking Water State Revolving Fund (DWSRF) Invoice Voucher Request No. 4 in the amount of \$13,991.70 for the Zone 2.5 Water Supply Improvements Project and authorize the Mayor to sign the documents.

<u>Reviewed by Department Director:</u>  Date: 6/20/14	<u>Reviewed by City Attorney:</u>  Date: 6/12/14	<u>Approved by Mayor:</u> not available Date:
<u>Today's Date:</u> June 12, 2014	<u>Revision Number/Date:</u>	<u>File Name and Path:</u>



Washington State  
**Public Works Board**  
 1011 Plum Street SE  
 Post Office Box 42525  
 Olympia, Washington 98504-2525

## DWSRF PROJECT STATUS REPORT

Submitter: Paul Warden - Mayor

Date of Submission: \_\_\_\_\_

This form must be completed each time you submit a reimbursement request. Reimbursement requests will not be processed unless accompanied by a current Project Status Report.

<b>Client Name:</b>	<b>Prosser</b>
<b>Contract Number:</b>	<b>DM13-952-140</b>
<b>Project Name:</b>	<b>Zone 2.5 Water Supply Improvements</b>
<b>Scheduled Project Completion Date:</b>	<b>9/30/2017</b>

### 1) Project Progress

Please describe the progress you have made to date on your project's scope of work (see Attachment A in your contract).

Design engineering, surveying and environmental compliance required for the project are ongoing.

Approximately, what percentage of the project is complete?	6 %
--	-----

When do you expect the project to be completed (month/day/year)?	12/01/2015
--	------------

if the anticipated completion date is different from the one above, what factors led to the change in the completion date?

## 2) Disadvantaged Business Enterprises (DBEs)

Did you award any DBE contracts this Quarter? NO

Total DBE contracted out this Quarter or Reporting Period: \$ 0.00

Type of Business	Contract Total	Award Date	Indicate Type of Service * construction * supplies * services * equipment	Contractor Name	Contractor Address
Minority Owned Business					
Women Owned Business					
Small Business in Rural Area					
Small Business Enterprise (SBE)					
Historically Underutilized Business (HUB) Zone Small Business Concerns					
Labor Surplus Area Firms (LSAF)					
Other Entities Meeting EPA's DBE Rule Criteria					

## 3) Federal Funds Expenditures

What is your jurisdiction's fiscal year? January To: December

During the fiscal year, how much has your system expended in (all sources) federal funds? \$1,471,784.84  
(2014)

(Fiscal year is your fiscal year as determined by your organization)

Note: Borrowers that expend \$500,000 or more in federal funds (all sources) in their fiscal year must have an audit conducted in accordance with Office of Management and Budget (OMB) revised Circular A-133. The audit must be conducted within nine months of the end of the fiscal year in which the audit was "triggered." The applicable federal category for the DWSRF is CFDA 66.468.

## 4) Dedicated Repayment Account (Private Systems Only)

Please enter the current account balance for the repayment account: \$ 0.00





Huibregtse, Louman Associates, Inc.  
 2803 River Road  
 Yakima, WA 98902

City of Prosser  
 601 Seventh St.  
 Prosser, WA 99350

Invoice number 13109E-005  
 Date 05/01/2014

Project 13109E Prosser - Zone 2.5 Water Supply  
 Improvements

Payment is Due within 30 Days of the Date of this Invoice.

FOR:

Professional Engineering and Land Surveying Services in connection with the Zone 2.5 Water Supply Improvements project, per your request, for services performed April 1 through April 30, 2014.

Description	Contract Amount	Percent Complete	Prior Billed	Total Billed	Current Billed
Phase 4 - Design and Final Plans and Specifications	79,500.00	49.00	35,775.00	38,955.00	3,180.00
Total	79,500.00	49.00	35,775.00	38,955.00	3,180.00

**Phase 1 - Environmental Compliance**

	Hours	Rate	Billed Amount
Licensed Professional Engineer	6.50	145.00	942.50
	Cost Amount	Multiplier	Billed Amount
Reiss-Landreau Research	4,460.00	1.07	4,772.20
Subtotal	4,460.00		4,772.20
Phase subtotal			5,714.70

**Phase 2 - Project Administration**

	Hours	Rate	Billed Amount
Contract Administrator	1.50	109.00	163.50
Phase subtotal			163.50

Invoice total 9,058.20

HUIBREGTSE, LOUMAN ASSOC., INC.



Jeffrey T. Louman, PE  
President

*PHASE 1 - ENVIRONMENTAL COMPLIANCE*

*Contract Amount: \$10,000.00*  
*Total Amount Billed to Date: \$7,524.70*  
*Contract Balance Remaining: \$2,475.30*

*PHASE 2 - PROJECT ADMINISTRATION*

*Contract Amount: \$10,000.00*  
*Total Amount Billed to Date: \$708.50*  
*Contract Balance Remaining: \$9,291.50*

*PHASE 3 - EASEMENT ACQUISITION ASSISTANCE*

*Contract Amount: \$5,000.00*  
*Total Amount Billed to Date: \$0.00*  
*Contract Balance Remaining: \$5,000.00*



Huibregtse, Louman Associates, Inc.  
 2803 River Road  
 Yakima, WA 98902

City of Prosser  
 601 Seventh St.  
 Prosser, WA 99350

Invoice number 13109E-006  
 Date 06/01/2014

Project 13109E Prosser - Zone 2.5 Water Supply Improvements

Payment is Due within 30 Days of the Date of this Invoice.

FOR:

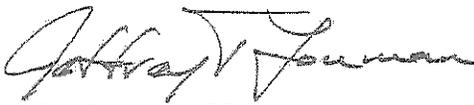
Professional Engineering and Land Surveying Services in connection with the Zone 2.5 Water Supply Improvements project, per your request, for services performed May 1 through May 31, 2014.

Description	Contract Amount	Percent Complete	Prior Billed	Total Billed	Current Billed
Phase 4 - Design and Final Plans and Specifications	79,500.00	55.00	38,955.00	43,725.00	4,770.00
Total	79,500.00	55.00	38,955.00	43,725.00	4,770.00

Phase 2 - Project Administration

	Hours	Rate	Billed Amount
Contract Administrator	1.50	109.00	163.50
Phase subtotal			163.50
Invoice total			<u>4,933.50</u>

HUIBREGTSE, LOUMAN ASSOCIATES, INC.

  
 Jeffrey T. Louman, PE  
 President

PHASE 1 - ENVIRONMENTAL COMPLIANCE  
Contract Amount: \$10,000.00  
Total Amount Billed to Date: \$7,524.70  
Contract Balance Remaining: \$2,475.30

PHASE 2 - PROJECT ADMINISTRATION  
Contract Amount: \$10,000.00  
Total Amount Billed to Date: \$872.00  
Contract Balance Remaining: \$9,128.00

PHASE 3 - EASEMENT AQUISITION ASSISTANCE  
Contract Amount: \$5,000.00  
Total Amount Billed to Date: \$0.00  
Contract Balance Remaining: \$5,000.00

## City of Prosser ZONE 2.5 WATER SUPPLY IMPROVEMENTS

DWSRF Project No.: DM13-952-140

HLA Project No. 13109

Invoice Date	Project Costs To Date						Project Total
	PE Phase 1	PE Phase 2	PE Phase 3	PE Phase 4	CE Phase 5	CE Prog Est	
01/01/14	\$ 70.00	\$ 144.00	\$ -	\$ 6,360.00	\$ -	\$ -	\$ 6,574.00
02/01/14	\$ 725.00	\$ 148.50	\$ -	\$ 13,515.00	\$ -	\$ -	\$ 14,388.50
03/01/14	\$ -	\$ 198.00	\$ -	\$ 11,925.00	\$ -	\$ -	\$ 12,123.00
04/01/14	\$ 1,015.00	\$ 54.50	\$ -	\$ 3,975.00	\$ -	\$ -	\$ 5,044.50
05/01/14	\$ 5,714.70	\$ 163.50	\$ -	\$ 3,180.00	\$ -	\$ -	\$ 9,058.20
06/01/14	\$ -	\$ 163.50	\$ -	\$ 4,770.00	\$ -	\$ -	\$ 4,933.50
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total</b>	\$ 7,524.70	\$ 872.00	\$ -	\$ 43,725.00	\$ -	\$ -	\$ 52,121.70

<b>HLA Contract</b>	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 79,500.00	\$ 86,200.00		\$ 190,700.00
<b>Contractor</b>							

<b>DWSRF Loan</b>	\$ 890,315.00	(Loan Fee of \$8,815.00 included)					\$ 881,500.00
-------------------	---------------	-----------------------------------	--	--	--	--	---------------

<b>Exp. to Date</b>	\$ 7,524.70	\$ 872.00	\$ -	\$ 43,725.00	\$ -	\$ -	\$ 52,121.70
<b>DWSRF Fund Loan Balance</b>							\$ 829,378.30

- Phase 1 - Environmental Compliance
- Phase 2 - Project Administration
- Phase 3 - Easement Acquisition Assistance
- Phase 4 - Design and Final Plans and Specifications
- Phase 5 - Services During Construction
- CE Prog Est - Construction Progress Estimates -Populated at Bid Opening/Award

G:\PROJECTS\2013\13109\DWSRF INFO\VOUCHER ROST NO. #REVISED VOUCHER ROST NO 4\2014-06 Revised PROJ COST BREAKDOWN 4.xls

CITY OF PROSSER, WASHINGTON

**AGENDA BILL**

<b>Agenda Title:</b> Approve Interagency Agreement No. K2853 between the City of Prosser and Department of Enterprise Services and authorize the Mayor to sign the document.		<b>Meeting Date:</b> June 10, 2014 Regular Meeting	
<b>Department:</b> Public Works	<b>Director:</b> L.J. Da Corsi	<b>Contact Person:</b> L.J. Da Corsi	<b>Phone Number:</b> (509) 786-2332
<b>Cost of Proposal:</b> N/A			<b>Account Number:</b>
<b>Amount Budgeted:</b> N/A			<b>Name and Fund#</b>
<b>Reviewed by Finance Department:</b>  <i>R Mouras</i>			
<b>Attachments to Agenda Packet Item:</b>  <ol style="list-style-type: none"> <li>1. Resolution 14-_____</li> <li>2. Interagency Agreement No. K2853 from the Department of Enterprise Services, dated May 21, 2014</li> <li>3. Attachment A - Scope of Work, Energy/Utility Conservation Projects Management Services</li> <li>4. Attachment B - Fee Schedule</li> <li>5. Attachment C - Scope of Work, Energy/Utility Conservation Projects Monitoring Services</li> </ol>			
<b>Summary Statement:</b>  <p>This Interagency Agreement is between the State of Washington Department of Enterprise Services (DES) and the City of Prosser. The purpose of this Agreement is to establish a vehicle for DES to provide future Energy/Utility Conservation Project Management and Monitoring Services to the City of Prosser and to authorize the development of the energy services proposal.</p> <p>The Agreement is the first step in reaching our goal to develop and fund the street light conversion project. This conceptual project consists of converting the current high wattage, energy consuming HPS street lights to energy-efficient, low wattage LED through the use of a DES approved Energy Services Company (ESCO). The DES will provide the following management and monitoring services to the City:</p>			

1. Assist the CLIENT AGENCY in the selection of an Energy Service Company (ESCO) consistent with the requirements of RCW 39.35A for local governments; or 39.35C for state agencies and school districts.
2. Assist in identifying potential energy/utility conservation measures and estimated cost savings.
3. Negotiate scope of work and fee for ESCO audit of the facility(s).
4. Assist in identifying appropriate project funding sources and assist with obtaining project funding.
5. Assist in negotiating the technical, financial and legal issues associated with the ESCO's Energy Services Proposal.
6. Review and recommend approval of ESCO energy/utility audits and Energy Services Proposals.
7. Provide assistance during the design, construction and commissioning processes.
8. Review and approve the ESCO invoice vouchers for payment.
9. Assist with final project acceptance.
10. Provide other services as required to complete a successful energy performance contract.

Additionally, if requested DES will provide the following:

11. Monitor actual energy use and dollar costs, compare with the ESCO's annual Measurement and Verification (M&V) report and any ESCO guarantee, resolve differences, if needed, and approve any vouchers for payment.
12. Monitor facility operations including any changes in operating hours, changes in square footage, additional energy consuming equipment and negotiate changes in baseline energy use which may impact energy savings.
13. Provide annual letter report describing the ESCO's performance, equipment performance and operation, energy savings and additional opportunities, if any, to reduce energy costs.

<u>Consistent with or Comparison to:</u> N/A		
<u>Recommended City Council Action/Suggested Motion:</u>  Approve Interagency Agreement No. K2853 between the City of Prosser and Department of Enterprise Services and authorize the Mayor to sign the document.		
<u>Reviewed by Department Director:</u>  Date: 6/20/14	<u>Reviewed by City Attorney:</u>  Date: 6/13/14	<u>Approved by Mayor:</u> Not Available  Date:
<u>Today's Date:</u> May 29, 2014	<u>Revision Number/Date:</u>	<u>File Name and Path:</u>

**CITY OF PROSSER, WASHINGTON  
RESOLUTION NO. 14- \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PROSSER,  
WASHINGTON AUTHORIZING THE MAYOR TO ENTER INTO  
INTERLOCAL AGREEMENT NUMBER K2853 WITH THE STATE OF  
WASHINGTON DEPARTMENT OF ENTERPRISE SERVICES FOR  
ENERGY CONSERVATION PROJECT MANAGEMENT SERVICES**

**WHEREAS**, the City and the State of Washington Department of Enterprise Services ("DES") are authorized, pursuant to RCW Chapter 39.34, to enter into an interlocal government cooperative agreement; and

**WHEREAS**, the City and DES wish to establish a vehicle for DES to provide future energy/utility conservation project management and monitoring services to the City and to authorize the development of an energy services proposal; and

**WHEREAS**, DES shall furnish the necessary personnel and services and otherwise do all things necessary for or incidental to the performance of the work set forth in the agreement; and

**WHEREAS**, it is necessary to document the terms and conditions under which DES provides the services;

**NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. That the above recitals are found to be true and correct in all respects.
  
2. The Mayor is hereby authorized to enter into an interlocal agreement with DES entitled Interagency Agreement No. K2853 for Energy Conservation Project Management Services.

**ADOPTED** by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR PAUL WARDEN

ATTEST:

---

RACHEL SHAW, CITY CLERK

APPROVED AS TO FORM

A handwritten signature in black ink, appearing to read "Howard Saxton", written over a horizontal line.

---

HOWARD SAXTON, CITY ATTORNEY

# **Interagency Agreement**

Date: May 21, 2014

Department of Enterprise Services

Interagency Agreement No: K2853

**Interagency Agreement Between the  
State of Washington  
Department of Enterprise Services  
and the  
City of Prosser**

This Agreement, pursuant to Chapter 39.34 RCW, is made and entered into by and between the Department of Enterprise Services, Facilities Division, Engineering & Architectural Services, hereinafter referred to as "DES", and the City of Prosser, hereinafter referred to as the "CLIENT AGENCY".

The purpose of this Agreement is to establish a vehicle for DES to provide future Energy/Utility Conservation Project Management and Monitoring Services to the CLIENT AGENCY and to authorize the development of the energy services proposal.

Now therefore, in consideration of the terms and conditions contained herein, or attached and incorporated by reference and made a part hereof, the above-named parties mutually agree as follows:

## **1. Statement of Work**

DES shall furnish the necessary personnel and services and otherwise do all things necessary for or incidental to the performance of the work set forth in Attachment "A" and Attachment "C", attached hereto and incorporated herein by reference. Unless otherwise specified, DES shall be responsible for performing all fiscal and program responsibilities as set forth in Attachment "A" and Attachment "C".

Energy/Utility Conservation projects shall be authorized by Amendment to this Agreement.

## **2. Terms and Conditions**

All rights and obligations of the parties to this Agreement shall be subject to and governed by the terms and conditions contained in the text of this Agreement.

The CLIENT AGENCY shall provide the Energy Services Company (ESCO) with any additional contract language necessary to comply with the requirements established under federal grants, the American Recovery & Reinvestment Act of 2009 (ARRA) and the Energy Efficiency and Conservation Block Grant (EECBG). The ESCO and their subcontractors are required to comply with all applicable federal regulations and reporting procedures.

## **3. Period of Performance**

Subject to its other provisions, the period of performance of this master Agreement shall commence when this Agreement is properly signed, and be completed on **December 31, 2017** unless altered or amended as provided herein.

#### **4. Consideration**

Compensation under this Agreement shall be by Amendment to this Agreement for each authorized project. Each Amendment will include a payment schedule for the specific project.

For Project Management Services provided by DES under Attachment "A" of this Agreement, the CLIENT AGENCY will pay DES a Project Management Fee for services based on the total project value per Project Management Fees Schedule set forth in Attachment "B".

If the CLIENT AGENCY decides not to proceed with an Energy/Utility Conservation project that meets CLIENT AGENCY's cost effective criteria, then the CLIENT AGENCY will be charged a Termination Fee per Attachment "B". The Termination Fee will be based on the estimated Total Project Value outlined in the Energy Audit and Energy Services Proposal prepared by the ESCO.

If monitoring and verification services are requested by the CLIENT AGENCY and provided by DES under Attachment "C" of this Agreement, the CLIENT AGENCY will pay DES \$2,000.00 annually for each year of monitoring and verification services requested.

Compensation for services provided by the ESCO shall be paid directly to the ESCO by the CLIENT AGENCY, after DES has reviewed, approved and sent the invoices to the CLIENT AGENCY for payment.

#### **5. Billing Procedure**

DES shall submit a single invoice to the CLIENT AGENCY upon substantial completion of each authorized project, unless a project specified a Special Billing Condition in the Amendment. Substantial completion of the project will include the delivery and acceptance of closeout documents and commencement of energy savings notification. Each invoice will clearly indicate that it is for the services rendered in performance under this Agreement and shall reflect this Agreement and Amendment number.

DES will invoice for any remaining services within 60 days of the termination of this Agreement.

#### **6. Payment Procedure**

The CLIENT AGENCY shall pay all invoices received from DES within 90 days of receipt of properly executed invoice vouchers. The CLIENT AGENCY shall notify DES in writing if the CLIENT AGENCY cannot pay an invoice within 90 days.

## **7. Non-Discrimination**

In the performance of this Agreement, DES shall comply with the provisions of Title VI of the Civil Rights Act of 1964 (42 USC 200d), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and Chapter 49.60 RCW, as now or hereafter amended. DES shall not discriminate on the grounds of race, color, national origin, sex, religion, marital status, age, creed, Vietnam-Era and Disabled Veterans status, or the presence of any sensory, mental, or physical disability in:

- a) Any terms or conditions of employment to include taking affirmative action necessary to accomplish the objectives of this part and
- b) Denying an individual the opportunity to participate in any program provided by this Agreement through the provision of services, or otherwise afforded others.

In the event of DES's non-compliance or refusal to comply with the above provisions, this Agreement may be rescinded, canceled, or terminated in whole or in part, and DES declared ineligible for further Agreement with the CLIENT AGENCY. DES shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth therein.

## **8. Records Maintenance**

The CLIENT AGENCY and DES shall each maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. DES will retain all books, records, documents, and other material relevant to this agreement for six years after expiration; and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

## **9. Contract Management**

- a. The CLIENT AGENCY Representative on this Agreement shall be:

L. J. Dacorsi, Public Works Director  
City of Prosser  
601 7<sup>th</sup> Street  
Prosser, WA 99350  
Telephone (509) 786-3717

The Representative shall be responsible for working with DES, approving billings and expenses submitted by DES, and accepting any reports from DES.

- b. The DES Project Manager on this Agreement shall be:

Alysa Wyrick  
Department of Enterprise Services  
Facilities Division  
Engineering and Architectural Services  
PO Box 41476  
Olympia, WA 98504-1476  
Telephone 509) 279-5024

Alysa Wyrick will be the contact person for all communications regarding the conduct of work under this Agreement.

#### **10. Hold Harmless**

Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this Agreement.

#### **11. Agreement Alterations and Amendments**

The CLIENT AGENCY and DES may mutually amend this Agreement. Such Amendments shall not be binding unless they are in writing and signed by personnel authorized to bind the CLIENT AGENCY and DES or their respective delegates.

#### **12. Termination**

Except as otherwise provided in this Agreement, either party may terminate this Agreement upon thirty (30) days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.

#### **13. Disputes**

If a dispute arises under this Agreement, it shall be determined in the following manner: The CLIENT AGENCY shall appoint a member to the Dispute Board. The Director of DES shall appoint a member to the Dispute Board. The CLIENT AGENCY and DES shall jointly appoint a third member to the Dispute Board. The Dispute Board shall evaluate the dispute and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

#### **14. Order of Precedence**

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- a) Applicable Federal and State Statutes and Regulations
- b) Terms and Conditions
- c) Attachment "A", Project Management Scope of Work; Attachments "B", Project Management Fees; and Attachment "C", Monitoring Services Scope of Work, and
- d) Any other provisions of the Agreement incorporated by reference.

**15. All Writings Contained Herein**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

---

**AUTHORIZATION TO PROCEED**

---

Agreed to and signed by:

**City of Prosser**

**Department of Enterprise Services  
Facilities Division  
Engineering & Architectural Services**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

William J. Frare, P.E.  
\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Public Works Administrator  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

The Department of Enterprise Services provides equal access for all people without regard to race, creed, color, religion, national origin, age, gender, sex, marital status, or disability. Contract information is available in alternative formats. For more information, please call Eddie Miller at (360) 407-9363.

K2853CityofProsserem

# ATTACHMENT A

## Scope of Work Energy/Utility Conservation Projects Management Services

### Statewide Energy Performance Contracting Program Master Energy Services Agreement No. 2013-133

DES will provide the following project management services for each specific project for the CLIENT AGENCY. Each individual project shall be authorized by Amendment to this Agreement.

1. Assist the CLIENT AGENCY in the selection of an Energy Service Company (ESCO) consistent with the requirements of RCW 39.35A for local governments; or 39.35C for state agencies and school districts.
2. Assist in identifying potential energy/utility conservation measures and estimated cost savings.
3. Negotiate scope of work and fee for ESCO audit of the facility(s).
4. Assist in identifying appropriate project funding sources and assist with obtaining project funding.
5. Assist in negotiating the technical, financial and legal issues associated with the ESCO's Energy Services Proposal.
6. Review and recommend approval of ESCO energy/utility audits and Energy Services Proposals.
7. Provide assistance during the design, construction and commissioning processes.
8. Review and approve the ESCO invoice vouchers for payment.
9. Assist with final project acceptance.
10. Provide other services as required to complete a successful energy performance contract.

# ATTACHMENT B

## Fee Schedule

2013-15 Interagency Reimbursement Costs  
for Project Management Fees to Administer  
Energy/Utility Conservation Projects

<u>TOTAL PROJECT VALUE</u>	<u>PROJECT MANAGEMENT FEE</u>	<u>TERMINATION</u>
5,000,001.....6,000,000.....	\$66,000.....	25,700
4,000,001.....5,000,000.....	65,000.....	25,400
3,000,001.....4,000,000.....	64,000.....	25,000
2,000,001.....3,000,000.....	60,000.....	23,400
1,500,001.....2,000,000.....	56,000.....	21,800
1,000,001.....1,500,000.....	49,500.....	19,300
900,001.....1,000,000.....	42,000.....	16,400
800,001.....900,000.....	39,600.....	15,400
700,001.....800,000.....	36,800.....	14,400
600,001.....700,000.....	35,000.....	13,700
500,001.....600,000.....	32,400.....	12,600
400,001.....500,000.....	29,000.....	11,300
300,001.....400,000.....	24,800.....	9,700
200,001.....300,000.....	19,800.....	7,700
100,001.....200,000.....	13,800.....	5,400
50,001.....100,000.....	7,500.....	3,500
20,001.....50,000.....	4,000.....	2,000
0.....20,000.....	2,000.....	1,000

The project management fee on projects over \$6,000,000 is 1.1% of the project cost. The maximum DES termination fee is \$25,700.

1. These fees cover project management services for energy/utility conservation projects managed by DES's Energy Program.
2. Termination fees cover the selection and project management costs associated with managing the ESCO's investment grade audit and proposal that identifies cost effective conservation measures if the CLIENT AGENCY decides not to proceed with the project through DES.
3. If the project meets the CLIENT AGENCY's cost effectiveness criteria and the CLIENT AGENCY decides not to move forward with a project, then the CLIENT AGENCY will be invoiced per Attachment B Termination or \$25,700 whichever is less. If the CLIENT AGENCY decides to proceed with the project then the Agreement will be amended per Attachment B for Project Management Fee.
4. If the audit fails to produce a project that meets the CLIENT AGENCY's established Cost Effectiveness Criteria, then there is no cost to the CLIENT AGENCY and no further obligation by the CLIENT AGENCY.

# ATTACHMENT C

## Scope of Work Energy/Utility Conservation Projects Monitoring Services

### Statewide Energy Performance Contracting Program Master Energy Services Agreement No. 2013-133

If requested DES will provide the following monitoring services for each specific project for the CLIENT AGENCY.

1. Monitor actual energy use and dollar costs, compare with the ESCO's annual Measurement and Verification (M&V) report and any ESCO guarantee, resolve differences, if needed, and approve any vouchers for payment.
2. Monitor facility operations including any changes in operating hours, changes in square footage, additional energy consuming equipment and negotiate changes in baseline energy use which may impact energy savings.
3. Provide annual letter report describing the ESCO's performance, equipment performance and operation, energy savings and additional opportunities, if any, to reduce energy costs.

CITY OF PROSSER, WASHINGTON  
**AGENDA BILL**

<b>Agenda Title:</b> Public Hearing to Receive Citizen Comment and Adopt Resolution Approving the Water Use Efficiency Goals.		<b>Meeting Date:</b> June 24, 2014 Regular Meeting	
<b>Department:</b>	<b>Director:</b>	<b>Contact Person:</b>	<b>Phone Number:</b>
Public Works	L.J. Da Corsi	L.J. Da Corsi	(509) 786-2332
<b>Cost of Proposal:</b> N/A			<b>Account Number:</b>
<b>Amount Budgeted:</b> N/A			<b>Name and Fund#</b>
<b>Reviewed by Finance Department:</b> N/A			
<b>Attachments to Agenda Packet Item:</b>			
<ol style="list-style-type: none"> <li>1. Public Hearing Notice</li> <li>2. Resolution No. 14-_____ adopting Water Use Efficiency Goals.</li> </ol>			
<b>Summary Statement:</b>			
<p>The Washington State Department of Health has implemented a new regulation for water use efficiency for all water purveyors with 15 or more water connections and it is the goal of the City to promote water conservation. In keeping with the requirements of the Water Use Efficiency Rule the governing body of the City must adopt these goals formally by resolution.</p> <p>The Washington State Legislature passed the 2003 Municipal Water Law (MWL) to reform the state's water laws. Two critical elements that evolved from this legislation were:</p> <ol style="list-style-type: none"> <li>1. Added flexibility in the use of municipal water rights to serve growing communities by eliminating some of the risk of losing those rights to the state.</li> <li>2. In exchange for this water right flexibility, the law requires municipalities to use water efficiently.</li> </ol> <p>WUE requirements can be found in WAC 246-290. To summarize, municipal water suppliers must:</p> <ul style="list-style-type: none"> <li>▪ Publicly establish water savings goals for their customers.</li> <li>▪ Evaluate or implement specific water saving measures to achieve customer-based goals.</li> </ul>			

- Develop a WUE planning program to support the established goals.
- Install meters on all customer connections by January 22, 2017.
- Achieve a standard of no more than 10% water loss.
- Report annually on progress towards achieving these goals.

The City of Prosser Water System has met these WUE requirements consistently for the last 6 years, the time period allotted until the City's existing WUE goals must be re-established by resolution.

The following are goals and associated measures proposed as the City of Prosser's WUE Program:

**GOAL #1:** The City of Prosser will reduce distribution system leakage to 10% or less by July 1, 2016. The following measures will be evaluated and/or implemented to assist in goal attainment:

- Calibrate all source meters and all industrial service meters annually.
- Meter all fire hydrant flushing.
- Continue with city-wide leak detection services by a qualified contractor, and repair identified leaks as soon as possible.

**GOAL #2:** Over the next six-year period, the City of Prosser will reduce Single-Family Residential water consumption by five (5) gallons per day per home. This reduction in single-family residential use will save approximately 2.5 million gallons per year over this six-year period. The following measures will be evaluated and/or implemented to assist in attaining this goal:

- Evaluate the inclusion of inserts as part of the monthly water bills that presents information regarding the importance of water conservation and actions individuals can implement to reduce their use of water.
- Investigate a Water Conservation School Outreach Program that may include school presentations, preparation of curriculum material, water conservation education handout material, and tours of water system facilities.
- Where possible, require new developments to connect to and utilize non-potable water sources for irrigation.
- Evaluate the possibility of expanding the non-potable residential irrigation system to serve customers currently using potable water for irrigation.
- Evaluate the use of a conservation-based water rate structure

The Public Hearing process is required in order to take into consideration citizen input, comments, suggestions, etc. If there are no additions to these proposed goals, and following the close of the Public Hearing, then the process can continue toward adoption of the goals by resolution.

<u>Consistent with or Comparison to:</u>		
<u>Recommended City Council Action/Suggested Motion:</u>		
Adopt Resolution 14-_____ Approving the Water Use Efficiency Goals.		
<u>Reviewed by Department Director:</u>	<u>Reviewed by City Attorney:</u>	<u>Approved by Mayor:</u>
 Date: 6/20/14	 Date: 6/19/14	not Available Date:
<u>Today's Date:</u>	<u>Revision Number/Date:</u>	<u>File Name and Path:</u>
June 19, 2014		

**City of Prosser, Washington  
Public Hearing Notice  
Water Use Efficiency Goals**

Notice is hereby given by the undersigned City Clerk of the City of Prosser, Washington, that the Prosser City Council will conduct a Public Hearing on Tuesday, June 24, 2014, at 7:00 p.m., or as soon thereafter as may be heard, for the purpose of receiving citizen comments on water use efficiency goals. The Public Hearing will be held in the City Council Chambers, Prosser City Hall, 601 7<sup>th</sup> Street, Prosser, Washington.

All interested persons are encouraged to attend. No qualified individuals with a disability shall be excluded or denied the benefit of participation in the Public Hearing. Materials supporting the rationale for the proposed goals can be reviewed at City Hall, 601 7<sup>th</sup> Street, Prosser, Washington.

If you require assistance to comment at the Public Hearing, please contact Prosser City Hall at (509) 786-2332 at least 7 days prior to the date of the Public Hearing to make arrangements.

Dated: June 6, 2014



---

Rachel Shaw, CMC  
City Clerk

Publication Date: June 11, 2014

**CITY OF PROSSER, WASHINGTON  
RESOLUTION NO. 14-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PROSSER, WASHINGTON, ADOPTING WATER USE  
EFFICIENCY GOALS.**

**WHEREAS**, the Washington State Department of Health has implemented a new regulation for water use efficiency for all water purveyors with 15 or more water connections, and,

**WHEREAS**, it is the goal of the City to promote water conservation, and,

**WHEREAS**, the City Council wants to implement target goals, and,

**WHEREAS**, a public hearing was held on June 10, 2014 to review and discuss the water use efficiency goals of the City, and

**WHEREAS**, the Council and the public had the opportunity to review all information required by WAC 246-290-830; and

**WHEREAS**, the City last adopted water use efficiency goals by passage of Resolution Number 08-1240

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Prosser that the following goals replace the goals adopted by Resolution 08-1240:

Goal #1: The City of Prosser will reduce distribution system leakage to 10% or less by July 1, 2016. The following measures will be evaluated and/or implemented to assist in goal attainment:

- Calibrate all source meters and all industrial service meters annually.
- Meter all fire hydrant flushing.
- Continue with city-wide leak detection services by a qualified contractor, and repair identified leaks as soon as possible.

Goal #2: Over the next six-year period, the City of Prosser will reduce Single-Family Residential water consumption by five (5) gallons per day per home. This reduction in single-family residential use will save approximately 2.5 million gallons per year over this six-year period. The following measures will be evaluated and/or implemented to assist in attaining this goal:

- Evaluate the inclusion of inserts as part of the monthly water bills that presents information regarding the importance of water conservation and actions individuals can implement to reduce their use of water.

- Investigate a Water Conservation School Outreach Program that may include school presentations, preparation of curriculum material, water conservation education handout material, and tours of water system facilities.
- Where possible, require new developments to connect to and utilize non-potable water sources for irrigation.
- Evaluate the possibility of expanding the non-potable residential irrigation system to serve customers currently using potable water for irrigation.
- Evaluate the use of a conservation-based water rate structure

**ADOPTED** by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this \_\_\_\_\_ day of June, 2014.

\_\_\_\_\_  
MAYOR PAUL WARDEN

ATTEST:

\_\_\_\_\_  
RACHEL SHAW, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
HOWARD SAXTON, CITY ATTORNEY

**CITY OF PROSSER, WASHINGTON**  
**AGENDA BILL**

<p><b><u>Agenda Title:</u></b></p> <p>Public Hearing on the revised SMP</p> <p>1. Review Ordinance 14-_____ Repealing the Existing Shoreline Master Program Contained in Prosser Municipal Code Chapter 16.04, adopting a New Shoreline Master Program and adopting Shoreline Designation Maps.</p> <p>2. Review Ordinance 14-_____ Amending Prosser Municipal Code Sections 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, and 16.60.040 of the City's Critical Areas Ordinance to make it Consistent with the City's Shoreline Master Program</p>		<p><b><u>Meeting Date:</u></b></p> <p>June 24, 2014 Regular Meeting</p>	
<p><b><u>Department:</u></b></p> <p>Planning</p>	<p><b><u>Director:</u></b></p> <p>Steve Zetz</p>	<p><b><u>Contact Person:</u></b></p> <p>Steve Zetz Howard Saxton</p>	<p><b><u>Phone Number:</u></b></p> <p>(509) 786-8212</p>
<p><b><u>Cost of Proposal:</u></b></p> <p>This is part of the grant awarded to us by the Department of Ecology for the purpose of updating the Shoreline Master Program.</p> <p><b><u>Amount Budgeted:</u></b></p> <p>NA</p>		<p><b><u>Account Number:</u></b></p> <p><b><u>Name and Fund#</u></b></p>	
<p><b><u>Attachments to Agenda Packet Item:</u></b></p> <p>1. Proposed Ordinance 14-_____</p> <p>2. Proposed Ordinance 14-_____</p> <p>3. Planning Commission Findings 6-19-2014</p> <p>4. Agenda Bill May 27, 2014 (Please refer to May 27, 2014, Packet to view additional material for the Public Hearing, including, but not limited to, the Comprehensive Plan and Shoreline Master Program (SMP) Update).</p>			
<p><b><u>Summary Statement:</u></b></p> <p>The Shoreline Master Program (SMP) Update is a process mandated by RCW 90.50.080. After nearly two years, the SMP is in final form and a public hearing was held by the Planning Commission on February 20, 2014, where it recommended the SMP for approval. Council previously reviewed the SMP on March 11, 2014, when it approved resolution Number 14-1446 submitting the SMP to the Department of Ecology for review. The SMP has now been placed into ordinance form (the SMP update to the</p>			

Comprehensive Plan is covered in a separate agenda bill). The next step in the process is for the Council to review the final SMP and pass ordinances adopting the changes. These ordinances will then be submitted to the Department of Ecology for final review. If changes are required by the Department of Ecology, then the Planning Commission and the City Council may have to hold additional public hearings. The Council will adopt these ordinances after the continued public hearing is closed on June 24, 2014.

Staff worked with the Department of Ecology and Anchor QEA to pare down the size of the SMP. In most cases the Department of Ecology noted that the majority of the sections in question were required by the State. The final result is 96 pages which is less than the original template that was first proposed to the Planning Commission.

While the SMP functions as a single document there are specific sections that the Council may wish to review with closer scrutiny.

- Reach location and Identification
- Uses allowed and identified within reaches 16.04.41 (Page 47)

The reaches break down the shorelines into specific segments, and the allowed and identified uses are just that. Those uses that have been identified (existing) and those uses which are allowed (permitted) as well as those uses which are preferred (not required but there can be incentives to encourage the preferred uses).

### **16.04.100 Permitted Use Table**

- A. The following table determines which shoreline uses are allowed or prohibited in each shoreline environment.
- B. Land uses allowed are subject to the preference for water-oriented uses and subject to specific criteria for uses and shoreline modification included in these regulations.
- C. Uses allowed in the Aquatic Environment are those allowed in the adjacent upland environment and limited to water-dependent use, ecological enhancement, and those transportation and utility facilities and Essential Public Facilities for which no alternative location is feasible.
- D. Land uses in the underlying zoning that require a conditional use permit in the underlying zoning district, require a shoreline conditional use permit.
- E. If a use is prohibited in the underlying zoning district, it is also prohibited in shoreline management act jurisdiction.
- F. KEY: X= Prohibited, P= Permitted, CU= Conditional Use Permit, PA=Permitted only as an accessory to a permitted use, Z = Permitted subject to underlying zoning.
- G. A use is considered unclassified when it is not listed in the in the Shoreline Modifications and Uses Regulations and is allowed in underlying zoning. A proposed unclassified use may be authorized as a conditional use provided that the applicant

can demonstrate consistency with the requirements of this Master Program and the requirements for conditional uses.

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
<b>Resource</b>							
Aquaculture	CU	CU	CU	CU	CU	X	X
Agriculture, except for dairying, poultry raising, and livestock	P	P	X	X	X	X	X
Dairying; poultry raising; livestock; and labor camps	X	X	X	X	X	X	X
Mining	X	X	X	CU	X	X	X
<b>Residential</b>	X	X	X	X	X	X	X
One single family dwelling per lot	Z	Z	Z	Z	P	CU	CU
Duplex	X	X	X	X	Z	X	X
Multifamily	X	Z	X	X	Z	X	X
Mobile home park	X	X	X	X	Z	X	X
Accessory Dwelling Unit (RCW 43.63A.215)	X	X	X	X	P	X	X
Bed and breakfast	X	Z	X	X	CU	X	X
Home occupation	X	X	X	X	Z	X	X
<b>Public and Quasi Public Uses</b>							
Boat launches	CU	CU	CU	CU	CU	CU	CU
Public recreational facilities	P	P	P	P	P	P	CU
Private recreational facilities	P	P	P	P	CU	P	X
Campgrounds	X	CU	CU	X	X	X	X
Golf courses	CU	X	X	X	CU	X	CU
Trails hard surface	P	P	P	P	P	P	CU
Trails soft surface	P	P	P	P	P	P	P
Commercial recreation: Fitness centers/sport clubs	X	X	P	X	X	X	X
Commercial amusement facilities	X	X	X	X	X	X	X
Civic and community buildings	CU	CU	CU	CU	CU	CU	X
Public or private schools	CU	CU	CU	CU	CU	CU	X
Government offices	CU	CU	CU	CU	CU	CU	X
Nursery school and day care center	X	X	Z	X	CU	X	X

Family day care center (RCW 35.63.185)	X	X	P	X	P	X	X
Museums	CU	CU	CU	CU	CU	CU	X
Nursing homes, homes for the aged	X	X	Z	X	X	X	X
Hospitals and health care facilities	X	X	CU	X	X	X	X
Churches	CU	CU	CU	CU	CU	CU	X
Irrigation facilities, dams, canals, etc.	CU						
Essential public facilities	CU						
<b>Commercial/Retail</b>	X	X	X	X	X	X	X
Marine sales, service, and rental	X	P	P	X	X	X	X
Marina	X	CU	CU	X	CU	X	X
Bakeries, barber and beauty shops, etc.	X	P	P	X	X	X	X
Commercial laundry and dry cleaning	X	X	CU	X	X	X	X
Retail uses	X	P	P	X	X	X	X
Restaurants	X	P	P	CU	X	X	X
Drinking establishments	X	P	P	PA	X	X	X
Hotel and motel	X	P	P	X	X	X	X
Banqueting halls	X	P	P	X	X	X	X
Resort	X	P	P	X	X	X	X
Recreation vehicle parks	X	X	Z	X	X	X	X
Theaters and amphitheaters	X	P	P	X	X	X	X
Veterinarians and kennels	X	X	X	X	X	X	X
Offices serving a permitted use	P	P	P	P	P	P	X
Offices as a primary use	X	X	X	X	X	X	X
Printing and publishing	X	X	Z	X	X	X	X
On-site hazardous waste treatment and storage	X	X	X	X	X	X	X
Nurseries and greenhouses	P	CU	X	CU	X	X	X
Lumber and building materials	X	X	P	CU	X	X	X
Automotive, truck, RV sales and service	X	X	X	X	X	X	X
Gasoline service station	X	X	X	X	X	X	X
<b>Industrial</b>							
Water-dependent industrial	Z	Z	X	P	X	X	X
Water-related industrial	Z	Z	X	P	X	X	X

Water-oriented industrial	Z	Z	X	P	X	X	X
Agriculture products processing	P	X	X	P	X	X	X
Wineries, including sales	P	P	P	P	X	X	X
Microbreweries	P	P	P	P	X	X	X
Municipal and utility yards	X	X	X	CU	X	X	X
Solid waste processing or disposal	X	X	X	X	X	X	X
Hazardous materials processing or disposal	X	X	X	X	X	X	X
Commercial moving and storage	X	X	X	X	X	X	X
Vessel repair	X	X	X	P	X	X	X
Equipment supply, repair, service	X	X	X	X	X	X	X
Manufacturing, other than food processing	X	X	X	P	X	X	X
Sale of items manufactured on-site	P	P	X	P	X	X	X
Industrial and scientific research laboratories	X	X	X	P	X	X	X
Petroleum, coal, fuel storage distribution	X	X	X	X	X	X	X
Junk or salvage yards	X	X	X	X	X	X	X
Solid waste processing or disposal	X	X	X	X	X	X	X
Hazardous materials processing or disposal	X	X	X	X	X	X	X
Warehouses, storage, distribution	X	X	X	P	X	X	X
<b>Transportation</b>							
Roads and railroads serving shoreline uses	P	P	P	P	P	P	P
Roads and railroads NOT serving shoreline uses	CU						
Park-and-Ride lots	X	X	X	X	X	X	X
Parking areas and facilities serving a primary use within the shoreline	P	P	P	P	P	P	P
Parking areas and facilities NOT serving a primary use within the shoreline	X	X	X	X	X	X	X
Parking as a principal use	X	X	X	X	X	X	X
<b>Utilities</b>							
Public and private utility distribution serving shoreline uses, water, sewer, electrical, gas, and communication	P	P	P	P	P	P	CU

Public and private utility distribution serving uses within the city	P	P	P	P	P	P	CU
Utility facilities serving uses not within the City	CU						
Electrical transmission of greater than 50 Kilovolts	CU						
Gas transmission larger than 6 inches in diameter	CU						
Oil or other pipelines	CU						
Utility buildings (pump stations, etc.)	CU						
Electrical substations	CU	CU	CU	CU	X	X	X

**Consistent with or Comparison to:**

The SMP Update is consistent with State Law.

**Recommended City Council Action/Suggested Motion:**

Move to approve Ordinance 14-\_\_\_\_\_ Repealing the Existing Shoreline Master Program Contained in Prosser Municipal Code Chapter 16.04, adopting a New Shoreline Master Program and adopting Shoreline Designation Maps.

Move to approve Ordinance 14-\_\_\_\_\_ Amending Prosser Municipal Code Sections 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, and 16.60.040 of the City's Critical Areas Ordinance to make it Consistent with the City's Shoreline Master Program

<u>Reviewed by Department Director:</u>  Date: 6-19-2014	<u>Reviewed by City Attorney:</u>  Date: 6/19/14	<u>Approved by Mayor:</u> Not Available Date:
<u>Today's Date:</u> June 18, 2014	<u>Revision Number/Date:</u>	<u>File Name and Path:</u>

**CITY OF PROSSER, WASHINGTON**  
**ORDINANCE NO. 14-\_\_\_\_\_**

**AN ORDINANCE REPEALING THE EXISTING SHORELINE MASTER PROGRAM CONTAINED IN PROSSER MUNICIPAL CODE CHAPTER 16.04 AND ADOPTING A NEW SHORELINE MASTER PROGRAM. THE ORDINANCE ALSO ADOPTS SHORELINE DESIGNATION MAPS. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.**

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PROSSER, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** Prosser Municipal Code Section 16.04.1 is hereby enacted to read as follows:

**16.04.1            Purpose**

- A. The City adopts the goals and principles of the Shoreline Management Act (SMA) as provided in RCW 90.58.020.
- B. The shoreline is one of the most valuable and fragile of the City's natural resources.
- C. There is a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development within the City's shoreline jurisdiction.
- D. The City's shoreline policies are intended to protect against adverse effects to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, while generally protecting public rights of navigation and corollary rights incidental thereto.
- E. These policies are intended to preserve the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines to the greatest extent feasible consistent with the overall best interest of the state, the City, and the people generally. To this end, uses shall be preferred which are consistent with control of pollution, prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.

**Section 2.** Prosser Municipal Code Section 16.04.2 is hereby enacted to read as follows:

**16.04.2            Shoreline Master Program Elements**

The Shoreline Master Program consists of the following elements:

- A. Comprehensive Plan Policies Shoreline Element.

- B. Regulations in City of Prosser Code (PMC) Chapter 18.08 Shoreline Management Regulations.
- C. Critical Area Regulations in PMC Chapters 16.10 through 16.60 as herein amended.
- D. The Shoreline Restoration Element of the Shoreline Master Plan on file in the office of the City Clerk and made available for examination by the general public, shall not be considered to contain regulations but shall be utilized as a guideline for capital improvements planning by the City and other jurisdictions undertaking ecological restoration activities within Shoreline Management Act jurisdiction.
- E. The Shoreline Environment Overlay Map on file in the office of the City Clerk and made available for examination by the general public.

**Section 3.** Prosser Municipal Code Section 16.04.3 is hereby enacted to read as follows:

**16.04.3 Definitions**

A. "A" Definitions:

- 1) "Administrator" means the city administrator or the administrator's designee who has been charged with the responsibility of administering this title.
- 2) "Agriculture" or "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 (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.
- 3) Agricultural equipment and agricultural facilities includes, but is not limited to:
  - a. 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;
  - b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

- c. Farm residences and associated equipment, lands, and facilities; and
  - d. Roadside stands and on-farm markets for marketing fruit or vegetables.
- 4) “Aquaculture” means the culture or farming of food fish, shellfish, or other aquatic plants and animals.
- 5) “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: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure;

B. “B” Definitions:

- 1) “Bioengineering” means the use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.
- 2) “Boating facility” for the purposes of the Shoreline Master Program means any public or private facility for mooring, storing, or transfer of materials from vessels on the water, such as docks and piers, including on-land related facilities such as approaches and ramps and includes any private and publicly accessible launch sites or facilities. A boating facility does not include on-land accessory facilities such as parking or storage.
- 3) “Buffer” means an area adjacent to a critical area that, functions to avoid loss or diminution of the ecologic functions and values of the critical area. Specifically, a buffer may:
- a. Preserve the ecologic functions and values of a system, including but not limited to providing microclimate conditions, shading, input of organic material and sediments, room for variation and changes in natural wetland, river, or stream characteristics, providing for habitat for lifecycle stages of species normally associated with the resource; and
  - b. Physically isolate a critical area such as a wetland, river, or stream from potential disturbance and harmful intrusion from surrounding uses using distance, height, visual and/or sound barriers, and generally including dense native vegetation, but also may include man-made features such as fences and other barriers;
  - c. Act to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters such as from landslide or flooding.

- 4) "Building height in Shoreline Management Act jurisdiction" only means the vertical distance between average grade and the highest part of the coping of a flat roof, or the deck line of a mansard roof, or the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building.
- 5) "Bulkhead" means a structure of timber, concrete, steel, rock or similar substance located parallel to the shore, which has as its primary purpose to contain and prevent the loss of soil by erosion, wave, or current action.

C. "C" Definitions:

- 1) "Channel migration zone" 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. For the purpose of this code the CMZ excludes areas separated from the active river channel by legally existing artificial structures that are likely to restrain channel migration, including but not limited to flood control facilities, transportation facilities, and structures built above or constructed to remain intact through the one hundred-year flood.
- 2) "Cumulative impacts" are the results of incremental actions when added to past, present, and reasonably foreseeable future actions. Cumulative impacts can be deemed substantial and subject to mitigation conditions even though they may be comprised of individual actions having relatively minor impacts.

D. "D" Definitions:

- 1) "Dredging" is the removal of earth, sand, gravel, silt, or debris from below the OHWM of any river, stream, pond, lake or other water body and beneath the area of seasonal saturation of any wetland.

E. "E" Definitions:

- 1) "Ecological function" 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 an element of a natural ecosystem.

F. "F" Definitions:

- 1) "Fair market value" means the open market bid price for conducting construction the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a

contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

- 2) "Feasible" means that an action, such as a development project, mitigation, or restoration 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.
  - d. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in short- and long-term time frames.
- 3) "Fill" means earth or any other substance or material placed in or on the ground, including earth retaining structures.
- 4) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that either:
  - a. Has been established in Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) or floodway maps; or
  - b. Consists of those portions of a river valley lying waterward 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 conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

- c. 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 risk reduction devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

G. “G” Definitions:

- 1) “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; estimates of susceptibility to erosion, sliding, earthquake, or other geological events; and the extent of risk to the health and safety of persons and property. Such a report shall include 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 geology and processes.

H. “H” Definitions:

- 1) High Water Mark – see “Ordinary High Water Mark”

I. “I” Definitions:

- 1) “In-stream structures” function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreation, or fisheries enhancement

J. “L” Definitions:

- 1) “Local utility” means public or private utilities normally servicing a neighborhood or defined subarea in the City, e.g., telephone exchanges; sanitary sewer; stormwater facilities; distribution lines, electrical distribution less than fifty five (55) kV, telephone, cable TV, etc.

K. “M” Definitions:

- 1) “Marina” means any commercial or club-owned facility consisting of docks or piers serving five or more vessels or a shared moorage serving a subdivision serving ten or more vessels.

- 2) "Mining" means the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses.
- 3) "Mixed use" within an area subject to the jurisdiction of the Shoreline Management Act means a combination of compatible uses within one development, in which water-oriented and non-water-oriented uses are included.
- 4) "Multiple use" means a combination of compatible uses within one development, and may include commercial, multi-family, and recreation uses among others.

L. "N" Definitions:

- 1) ) ) "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, or upon annexation, but which does not conform to present regulations or standards of the program.
- 2) "No net loss of ecological functions" is the maintenance of existing ecological processes and functions at the level that existed at the time of approval of relevant policies and regulations.
  - a. No net loss of ecological functions on the level of the City means that the ecological processes and functions are maintained within a watershed or other functional catchment area. Regulations may result in localized cumulative impacts or loss of some localized ecological processes and functions, as long as the ecological processes and functions of the system are maintained. Maintenance of system ecological processes and functions may require compensating measures that offset localized degradation.
  - b. On a project basis, no net loss means that permitted use or alteration of a site will not result in on-site or off-site deterioration of the existing condition of ecological functions that existed prior to initiation of use or alterations as a direct or indirect result of the project.
  - c. No net loss is achieved both through avoidance and minimization of adverse impacts as well as compensation for impacts that cannot be avoided. Compensation may include on-site or off-site restoration of ecological functions to compensate for localized degradation.
- 3) "Non-Water-Dependent Use" means those uses which are not water-dependent.

- 4) “Non-Water-Oriented Use” means those uses which are not water-dependent, water-related, or water-enjoyment.

M. “O” Definitions:

- 1) “Open space” means an area that is intended to provide light and air, view, use or passage of persons or animals which is almost entirely unobstructed by buildings, paved areas, or other man-made structures and is designed or preserved for environmental, habitat, scenic or recreational purposes.
- 2) “Ordinary high water mark” (or OHWM) means the mark on all lakes and streams that will be found by examining the beds 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 and vegetation, as that condition existed on June 1, 1971, for all lands under the jurisdiction of the Shoreline Management Act, or for other lands on the effective date of the relevant provisions of this code, or as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or other authorized jurisdictions. In any area where the ordinary high water mark cannot be found, it shall be defined in accordance with WAC 173-22-030, generally the line of the mean higher high tide in areas adjoining salt water, and the line of mean high water in areas adjoining freshwater.

N. “P” Definitions:

- 1) “Pier” means docks and similar structures consisting of a fixed or floating platform extending from the shore over the water. This definition does not include overwater trails.
- 2) “Public access” means physical and/or visual approach to and along the shoreline available to the general public.

O. “R” Definitions:

- 1) “Recreation areas or facilities” means any privately or publicly owned passive or active facility that provides for activities undertaken for pleasure or relaxation and for the refreshment of the mind and body that takes place in the outdoors or in a facility dedicated to the use including walking, fishing, photography, viewing, and bird-watching and may include parks, playgrounds, sports fields, paths and trails, beaches, or other recreation areas or facilities.

P. “S” Definitions:

- 1) “Shorelands or shoreland areas” means those lands under the jurisdiction of the Shoreline Management Act extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of the Shoreline Management Act RCW 90.58.030; the same to be designated as to location by the Department of Ecology.
- 2) “Shoreline areas” mean all “shorelines of the state” and “shorelands.”
- 3) “Shoreline Stabilization” means structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as currents, floods, tides, wind, or wave action.
- 4) “Should” means, in areas that are subject to the provisions of the Shoreline Management Act RCW 90.58.030; that a particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action. The Administrator, in consultation with Ecology, shall make the determination about whether or not an applicant has demonstrated that there is a compelling reason against taking an action.

Q. “W” Definitions:

- 1) “Water-dependent use” means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.
- 2) “Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for enjoyment or recreational use of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the visual and physical qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.
- 3) “Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

- 4) “Water-related use” means a use or portion of a use which is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon a waterfront location because:
  - a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
  - b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.
  
- 5) “Wetlands” or “wetland areas means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation 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. For identifying and delineating a regulated wetland, the methodology specified by the Department of Ecology shall be utilized.
  
- 6) “Wetlands, Associated jurisdictional wetlands are those wetlands that are in proximity to and either influence or are influenced by shoreline areas” subject to the Shoreline Management Act.
  
- 7) “Wetland identification and delineation” Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with WAC 173-22-035 and the approved federal wetland delineation manual and applicable regional supplements.

**Section 4.** Prosser Municipal Code Section 16.04.4 is hereby enacted to read as follows:

**16.04.4 Shoreline Environment Designations**

Shoreline areas are classified into specific environment designations based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the

community as expressed through the City of Prosser Comprehensive plan. Lands not designated are assigned an Urban Conservancy environment designation.

**Section 5.** Prosser Municipal Code Section 16.04.050 is hereby enacted to read as follows:

**16.04.5 Shoreline Agribusiness**

- A. **Purpose.** The purpose of this district is to designate land within shoreline jurisdiction best suited for commercial or industrial agricultural businesses, including agriculture and agricultural products processing and to preserve land best suited for eventual urban development.
- B. **Designation Criteria.** The Shoreline Agribusiness Environment is designated in those areas within the City limits and Urban Growth Area designated in the Comprehensive Plan as Agribusiness.
- C. **Management Policies.**
  - 1) Priority is given to water-dependent uses. Second priority is given to water-related and water-enjoyment uses. Non-water-oriented uses are allowed where they do not conflict with or limit opportunities for water oriented uses or on sites where there is no direct access to the shoreline, and where public access and ecological restoration are provided.
  - 2) Policies and regulations assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with any relevant state and federal laws.
  - 3) Visual or physical public access to shorelines will be required as a condition of development where appropriate.
  - 4) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening, and maintenance of natural vegetative buffers.

**Section 6.** Prosser Municipal Code Section 16.04.6 is hereby enacted to read as follows:

**16.04.6 Shoreline Agri-Tourism**

- A. **Purpose.** The purpose of this district is to designate land within shoreline jurisdiction best suited for commercial and other uses that attracts and serves visitors to the agricultural amenities of the region, including but not limited to the agriculture, wineries, microbreweries, limited agriculture-related manufacture, processing and sale; resorts, hotels, and other lodging facilities; and restaurants.
- B. **Designation Criteria.** The Shoreline Agri-Tourism Environment is designated in those areas within the city limits and Urban Growth Area designated as Agri-Tourism.

**C. Management Policies.**

- 1) Priority is given to water-dependent uses. Second priority is given to water-related and water-enjoyment uses. Non-water-oriented uses are allowed where they do not conflict with or limit opportunities for water oriented uses or on sites where there is no direct access to the shoreline and where public access and ecological restoration are provided.
- 2) Policies and regulations assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with any relevant state and federal laws.
- 3) Visual and/or physical public access will be required as a condition of development.
- 4) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening, and maintenance of natural vegetative buffers.

**Section 7.** Prosser Municipal Code Section 16.04.7 is hereby enacted to read as follows:

**16.04.7 Shoreline Commercial Environment**

- A. **Purpose.** The Shoreline Commercial designation is intended to accommodate various commercial operations located in the shoreline jurisdiction. The designation is suitable for existing and future high intensity water-oriented uses and water-oriented commercial uses. A more limited range of commercial uses is appropriate in the shoreline, as compared to the wide range of uses allowed elsewhere in the City. Commercial development that enhances visual and physical public access to the shoreline is encouraged.
- B. **Designation Criteria.** The Commercial Environment is designated in those areas within the city limits and Urban Growth Area designated in the Comprehensive Plan for commercial development.
- C. **Management Policies.**
  - 1) Priority is given to water-dependent uses. Second priority is given to water-related and water-enjoyment uses. Non-water-oriented uses are allowed where they do not conflict with or limit opportunities for water-oriented uses or on sites and in conjunction with providing public access and ecological restoration.
  - 2) Policies and regulations assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with any relevant state and federal laws.
  - 3) Visual and/or physical public access will be required as a condition of development.

- 4) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening, and maintenance of natural vegetative buffers.

**Section 8.** Prosser Municipal Code Section 16.04.8 is hereby enacted to read as follows:

**16.04.8 Shoreline Industrial Environment**

- A. **Purpose.** The purpose of the Shoreline Industrial Environment is to provide for industrial activities where infrastructure such as transportation, utilities, and other services exist or are planned to support such uses, and where sites are not adjacent to commercially-navigable waters.
- B. **Designation Criteria.** The Industrial Environment is designated for areas within the city limits or Urban Growth Area designated for industrial development in the Comprehensive Plan.
- C. **Management Policies.**
  - 1) Priority is given to water-dependent and water-related uses in that order of preference. Non-water-oriented uses are appropriate because of the limited range of potential water-dependent uses; however, a limited range of uses should be allowed within shoreline jurisdiction.
  - 2) To be approved, non-water-oriented uses on sites adjacent to the water must provide public benefit in the form of ecological enhancement and public access.
  - 3) No net loss of shoreline ecological functions shall result from development of a site. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with any relevant state and federal laws.
  - 4) Physical public access should be required as provided for in appropriate policies and regulations of this program.
  - 5) Aesthetic objectives of this program should be implemented by means such as sign control regulations, appropriate development siting, height limits, screening, and and maintenance of natural vegetative buffers

**Section 9.** Prosser Municipal Code Section 16.04.9 is hereby enacted to read as follows:

**16.04.9 Shoreline Residential Environment**

- A. **Purpose.** The purpose of the Shoreline Residential Environment is to maintain areas which are currently primarily residential or intended for residential use. This designation will maintain the intended character of different residential areas designated by the comprehensive plan and provide a variety of residential opportunities The density and character of development will

require consistency in terms of open space, bulk, scale, and intensity of use with the provisions of the Comprehensive Plan and current zoning. This designation also provides appropriate public access and recreational uses.

B. **Designation Criteria.** The Shoreline Residential Environment is appropriate for those areas of the City's shorelines with a residential designation in the Comprehensive Plan and are characterized predominantly by residential development.

C. **Management Policies.**

- 1) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to maintain no net loss of shoreline ecological functions.
- 2) New residential developments shall provide public access where appropriate.

**Section 10.** Prosser Municipal Code Section 16.04.10 is hereby enacted to read as follows:

#### **16.04.10 Recreation Environment**

A. **Purpose.** The Recreation Environment is intended to provide areas for recreational and public access opportunities along Prosser's shorelines. It is an appropriate designation for areas occupied by recreational purposes such as parks and marinas. An additional purpose is to maintain and restore ecological functions to the area and preserve open space within the City.

B. **Designation Criteria.** The Recreation Environment is designated in those areas where public and private lands are devoted or designated for recreation use including parks and open space and water-dependent uses such as marinas which provide recreational moorage.

C. **Management Policies.**

- 1) Recreation development must balance the goal of enhancing recreational use of the shoreline and the goal of ecological stewardship ensuring no net loss of ecological function.
- 2) Expanded recreational opportunities on the shoreline shall emphasize water-dependent and water-related uses including, but not limited to, boating, swimming, walking, hiking, and recreational sports.
- 3) Recreational opportunities shall be accessible by all.
- 4) Park management shall encourage ecological stewardship including, but not limited to, such measures as setting activity areas away from the water's edge and planting and maintaining native vegetation buffers along the water.

**Section 11.** Prosser Municipal Code Section 16.04.11 is hereby enacted to read as follows:

**16.04.11 Urban Conservancy Environment**

- A. **Purpose.** The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in the city while allowing a limited range of compatible uses.
- B. **Designation Criteria.** The Urban Conservancy Environment is designated in those areas of Prosser with a high level of ecologic functions with open space, flood plains or other sensitive areas that should not be more intensively developed;
- C. **Management policies.**
  - 1) Uses that preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses.
  - 2) Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
  - 3) standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
  - 4) Public access and public recreation objectives should be carefully controlled to avoid ecological impacts..
  - 5) Water-oriented uses should be given priority over nonwater-oriented uses.

**Section 12.** Prosser Municipal Code Section 16.04.12 is hereby enacted to read as follows:

**16.04.12 Aquatic Environment**

- A. **Purpose.** The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark (OHWM).
- B. **Designation Criteria.** The Aquatic Environment is defined as the area waterward of the ordinary high water mark of all streams, rivers, and other water bodies constituting shorelines of the state, together with their underlying lands and their water column; but does not include associated wetlands and other shorelands shoreward of the ordinary high water mark. This designation is not found on the Shoreline Environment Map, but shall be assigned based on the description above.

**C. Management Policies.**

- 1) Water-dependent uses and a limited range of water-oriented uses are allowed in the Aquatic Environment, subject to provision of shoreline ecological enhancement and public access.
- 2) New over-water structures are allowed only to serve water-dependent uses, public access, or ecological restoration and should be limited to the minimum necessary to support the structure's intended use.
- 3) Transportation and utility facilities and Essential Public Facilities may be allowed for which no alternative location is feasible.
- 4) Ecological enhancement is an allowed and preferred use.

**Section 13.** Prosser Municipal Code Section 16.04.20 is hereby enacted to read as follows:

**16.04.20 General Standards**

This section shall apply to all development activities within the shoreline.

**Section 14.** Prosser Municipal Code Section 16.04.21 is hereby enacted to read as follows:

**16.04.21 Shorelines of Statewide Significance**

- A. **Applicability.** The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Within the City of Prosser's jurisdiction, the Yakima River is a shoreline of statewide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people in the state derive benefit, the City gives preference to uses which favor long-range goals and support the overall public interest.
- B. **Decision Criteria.** Every project located on a Shoreline of Statewide Significance, shall address the following in all permit reviews, in addition to other criteria provided by this program:
- Recognize and protect the statewide interest, including recognizing the following statewide interests specific to the Yakima River:
- 1) Preserve the natural character of the shoreline and protect the resources and ecology of the shoreline:

- a. Protect and preserve existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.
  - b. Preserve and restore ecological functions, particularly those associated with endangered species, commercial and recreational fisheries, and tribal fishing rights.
- 2) Result in long-term over short-term benefit:
- a. Promote water-oriented uses, particularly water-enjoyment uses.
  - b. Evaluate the short-term economic gain or convenience of developments relative to potential long-term impairments to the natural shoreline and preserve resources and values for future generations.
- 3) Increase public access to publicly-owned areas of the shorelines and increase recreational opportunities for the public in the shoreline:
- a. Promote recreational use and public access, including boat launches.
  - b. Retain and enhance public access to the shoreline, including passive enjoyment, recreation, fishing, and other enjoyment of the shoreline and public waters consistent with the enjoyment of property rights of adjacent lands.
  - c. Give priority to developing a system of continuous and parallel paths and trails along the shoreline and connecting to uplands to enhance access to the community as a whole.
  - d. Reserve areas for water-enjoyment uses, restaurants with outside seating, and lodging and related uses that enhance the community's economic base while providing opportunities for the public to access and enjoy the shoreline.

**Section 15.** Prosser Municipal Code Section 16.04.22 is hereby enacted to read as follows:

**16.04.22 No Net Loss of Ecological Functions**

- A. Shoreline land uses and activities that may have adverse impacts on the environment should be minimized during all phases of development (e.g., design, construction, management, and use) to ensure no net loss of ecological functions and processes. Permitted uses are designed and conducted to minimize, in so far as practical, any resultant damage to the ecology and environment (RCW 90.58.020). Shoreline ecological functions that shall be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature

maintenance. Shoreline processes that shall be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

- B. An application for any permit or approval shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions. Mitigation shall occur in the following prioritized order:
- 1) Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action.
  - 2) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
  - 3) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment.
  - 4) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.
  - 5) Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments. Preference shall be given to measures that replace the impacted functions on-site or in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans may be authorized.
  - 6) Monitoring the adverse impact and taking appropriate corrective measures.
- C. Applicants for permits have the burden of proving that the proposed development is consistent with the criteria set forth in the Shoreline Master Program and the SMA, including demonstrating all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions.

**Section 16.** Prosser Municipal Code Section 16.04.23 is hereby enacted to read as follows:

### **16.04.23 Critical Areas within Shoreline Jurisdiction**

- A. Critical Areas within the shoreline jurisdiction shall be regulated in accordance with the following provisions of PMC Chapter 16.10 Critical Areas, as amended by Section III of this ordinance:

#### **CRITICAL AREAS**

##### **Sections:**

- 16.10 Critical Areas Protection—General Provisions
- 16.20 Wetlands
- 16.30 Critical Aquifer Recharge Areas
- 16.40 Frequently Flooded Areas
- 16.50 Geologically Hazardous Areas
- 16.60 Fish and Wildlife Habitat Conservation Areas

**Section 17.** Prosser Municipal Code Section 16.04.24 is hereby enacted to read as follows:

### **16.04.24 Shoreline Vegetation Conservation**

- A. In addition to the Critical Areas standards of PMC Chapter 16.20, the following shall apply to development on the shoreline:
- 1) A vegetation management plan shall be required for all Critical Area buffer areas with degraded native vegetation within SMA jurisdiction to include:
    - a. Maintain adequate cover of native vegetation including trees and understory. If a portion of the buffer has been cleared, or if tree cover is substantially less than a native climax vegetation community, supplemental plantings shall be required.
    - b. Provide a dense screen of trees at the perimeter of the buffer to provide and protect ecological functions and reduce proximity impacts such as light and glare from adjacent areas.
    - c. Provide a plan for control of invasive weeds, and removing existing invasive species for new plantings.
    - d. Provide a monitoring and maintenance plan. This provision may be waived for single family residential lots.

- B. In cases where approved development results in unavoidable adverse impacts to existing shoreline vegetation, mitigation shall be required to ensure that there will be no net loss of the ecological functions. Mitigation shall take place on-site to the maximum extent feasible. Mitigation plans shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule assuring completion prior to occupancy has been approved.
- C. Lawns and other non-native vegetation maintained within shoreline jurisdiction shall minimize use of chemical fertilizers, pesticides, herbicides, or other similar substances. Such chemical treatments should generally not be applied within 10 feet of the OHWM and shall be applied in accordance with manufacturer's recommendations. Applications in solid time release form shall be preferred over liquid or concentrate application. Best Management Practices (BMPs) shall be implemented in all chemical applications.
- D. Aquatic weed management by prevention is the first priority. Where active removal or destruction is necessary, it should be the minimum required to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weed materials.
- 1) Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.
  - 2) The control of aquatic weeds by derooting, rotovating, or other method which disturbs the bottom sediment or benthos, shall be considered development for which a shoreline permit is required, unless it will maintain existing water depth for navigation in an area covered by a previous permit for such activity, in which case it shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a shoreline permit.
  - 3) Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control is demonstrated to be in the public's interest. A conditional use permit, and compliance with applicable federal and state laws shall be required.

**Section 18.** Prosser Municipal Code Section 16.04.25 is hereby enacted to read as follows:

### 16.04.25 Public Access

- A. All developments requiring shoreline substantial development or conditional use permits, and all residential subdivision or development of more than four (4) lots or non-single family residential development, shall provide public access to the shoreline subject to the conditions in criteria (1) and (2) below:
- 1) Alternatives to on-site public access may be approved in cases where the applicant demonstrates that one or more of the following provisions apply:
    - a. Unavoidable health or safety hazards to the public would accompany public access that cannot be avoided by application of alternative design features or other solutions.
    - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features.
    - c. The cost of providing the access, easement, or an alternative amenity, or mitigating the impacts of public access, is unreasonably disproportionate to the total long-term cost of the proposed development.
    - d. Unacceptable environmental harm will result from the public access that cannot be mitigated.
    - e. Significant undue and unavoidable conflict between access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
    - f. Public access is provided by a public entity through implementation of a public access plan incorporated into its master plan, developed through a public participation process and incorporated into this program.
  - 2) Based on documentation provided by the applicant, the City shall determine that all reasonable alternatives have been exhausted, including, but not limited to:
    - a. Limiting the size or placement of public access facilities;
    - b. Regulating access by such means as maintaining a gate and/or limiting hours of use;
    - c. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and
    - d. Providing for access at a site geographically separated from the proposal including contribution to regional trail or public access plans.

- B. The following activities generally are not required to provide public access, except as determined on a case-by-case basis as part of development review:
- 1) Single family development of four (4) or fewer units
  - 2) Minor additions or changes to an existing use that does not change the configuration of the existing use or add substantial facilities.
  - 3) Resource uses including agriculture.
  - 4) Ecological restoration or enhancement activities not associated with a development.
- C. Specific provisions for public access shall be evaluated on a case-by-case basis to ensure that they are of the kind, quality, and scope to provide a substantial public benefit with respect to the Shoreline Management Act's objectives and do not create a disproportionate impact on landowners.
- D. The amount of public access required shall depend on the proposed use(s) and the following criteria:
- 1) Any development or use that creates increased demand for public access to the shoreline shall provide public access to mitigate this impact.
  - 2) Any development or use that interferes with an existing public access way shall provide public access to mitigate this impact.
  - 3) Uses and developments that utilize public aquatic lands shall provide public access consistent with maintaining the use and public safety. Public access shall be provided on over-water structures not devoted to water-dependent use, except when accessory to single family use.
  - 4) New or expanded flood control facilities with public funding, shall provide public access, preferably through trails along or on top of the facility.
  - 5) Public roads or other public facilities parallel to or crossing shorelines may be required to provide public access.
  - 6) Public utilities within the shoreline, other than distribution facilities, shall provide public access consistent with maintaining the use and public safety.
- E. Public access shall consist of a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat-launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may

include interpretive centers and displays. Public access improvements shall meet the following location and design criteria:

- 1) Public access shall be provided as close (horizontally and vertically) as feasible to the water's edge to provide the general public with opportunity to reach, touch, view, and enjoy the water's edge, provided that public access does not adversely affect sensitive ecological features or lead to an unmitigated reduction in ecological functions.
- 2) If open space is provided along the shoreline in the form of Critical Area buffers, and public access can be provided in a manner that will not result in a loss of ecological function, a public pedestrian access walkway along and parallel to the waterfront of the property is the preferred design. The walkway shall be set back from sensitive features and may provide only limited and controlled access to the water's edge. Fencing may be provided to control damage to plants and other sensitive features and shall provide for wildlife movement. Soft surface trails and limited width should be specified where appropriate to reduce impacts to ecologically sensitive resources.
- 3) Public access shall be connected directly to the nearest public street; shall include provisions for handicapped and physically impaired persons where feasible, and where additional impact on ecological functions will not occur.
- 4) Design shall minimize intrusions of privacy for both site users and public access users by avoiding locations adjacent to windows and/or outdoor private open spaces or by screening or other separation techniques.
- 5) Design shall provide for the safety of users, including the control of offensive conduct through Crime Prevention through Environmental Design or CPTED principles including public visibility, or provision of specific oversight. The Administrator may authorize public access to be temporarily closed to develop a program to address offensive conduct. If offensive conduct cannot be reasonably controlled, alternative facilities may be approved as a permit revision.
- 6) Public amenities appropriate to the use of the public access space shall be provided. These amenities can include, but are not limited to, benches, picnic tables, public docks, and sufficient public parking.
- 7) Public restrooms and facilities for animal waste may be required as part of public access amenities for developments by public entities or commercial developments that attract a substantial number of persons.

- F. Public access shall be maintained over the life of the use or development. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.
- 1) Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity or in accordance with provisions for guaranteeing installation through a performance assurance.
  - 2) Public access provisions shall be recorded as an easement or a dedication to the public on the face of a plat or short plat. Said recording with the County Auditor's Office shall occur at the time of building permit approval or plat recordation, whichever comes first.
  - 3) Maintenance of the public access shall be the responsibility of the owner unless specifically accepted by a public or non-profit agency.
  - 4) The minimum width of public access easements shall be 15 feet, unless the Administrator determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship. Width of the trail improved surface shall be 10 ft unless local conditions or ecological sensitivity warrants wider or narrower width. Pervious material is encouraged for all trails.
  - 5) Public access shall be available to the public during daytime hours or business hours unless specific exceptions are granted through the substantial development permit process where safety hazards or security issues to users or adjacent uses are substantiated.
  - 6) Public access signs bearing the standard state-approved logo or other approved design shall be installed and maintained by the applicant and owner. The sign(s) must indicate the public's right of access and hours of access, and shall be installed in conspicuous locations at public access sites. Signs may display restrictions of public access as approved by a specific condition of permit approval.
- G. Public access afforded by shoreline street ends, public utilities, and rights-of-way shall be preserved, maintained, and enhanced pursuant to RCW 35.79.035.
- H. Public access for new and substantially altered development shall incorporate the location and design criteria provided for specific reaches in Section 18.08.340 of this program.

**Section 19.** Prosser Municipal Code Section 16.04.26 is hereby enacted to read as follows:

### **16.04.26 Signs**

- A. All signs shall be located and designed to be compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses. Signs shall minimize interference with vistas, viewpoints, and visual access to the shoreline.
- B. Except where no feasible location outside of SMA jurisdiction is available, signs placed in SMA jurisdiction should be limited to public information signs directly relating to a shoreline use or activity, water navigational signs, and legally-required highway and railroad signs necessary for operation, safety, and direction.
- C. Over-water signs or signs on floats or pilings are prohibited except for warning and hazard signs installed by a public entity.
- D. Lighted signs shall be hooded, shaded, or aimed so that lighting will not result in glare when viewed from public access facilities or watercourses.
- E. Conceptual sign plans shall be submitted for review and approval at the time of shoreline permit application and shall be utilized in future review of sign permits for the property.

**Section 20.** Prosser Municipal Code Section 16.04.27 is hereby enacted to read as follows:

### **16.04.27 Archaeological and Historic Resources**

- A. Owners of property containing identified or probable historical, cultural, or archaeological sites are encouraged to coordinate well in advance of application for development to assure that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.
- B. Prior to approval of development in an area of known or probable cultural resources, the City shall require a site assessment by a qualified professional archaeologist or historic preservation professional and ensure review by qualified parties. Conditions of approval may require preservation or conservation of cultural resources as provided by applicable federal, state and local statutes. All permits issued for development in areas known to be archaeologically significant shall provide for monitoring of any development activity for previously unidentified cultural resources.

- C. If historical, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the Administrator. The property owner also shall notify the Washington State Department of Archaeology and Historic Preservation and affected tribes. The Administrator may provide for a site investigation by a qualified professional and may require avoidance or conservation of the resources in coordination with appropriate agencies. All shoreline permits shall contain a special provision notifying permittees of this requirement. Failure to comply with this requirement shall be considered a violation of the shoreline permit and shall subject the permittee to legal action as specified in these provisions and PMC Chapter 19.07.
- D. All developments proposed for location adjacent to historical sites, which are registered on the local, state, or national historic register shall be located and designed so as to be complimentary to the historic site..

**Section 21.** Prosser Municipal Code Section 16.04.28 is hereby enacted to read as follows:

**16.04.28 Water Quality, storm water, and nonpoint pollution**

- A. All shoreline development shall comply with the applicable requirements of the City’s Comprehensive Plan, Stormwater Management Performance Standards, and best management practices and the Eastern Washington Stormwater Manual to prevent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.
- B. Stormwater management structures including ponds, basins, and vaults shall be located outside of SMA jurisdiction where possible and as far from the water’s edge as feasible and shall minimize disturbance of vegetation buffers. Low impact development (LID) facilities that do not substantially change the character of the shoreline, such as vegetation filter strips, grass-lined swales, vegetated bioretention, and infiltration facilities, are encouraged for development allowed in SMA jurisdiction.
- C. Use of pesticides, herbicides, and fertilizers in or near the land/water interface shall be restricted by employing native vegetation where feasible and by strict control of application. Aerial application within SMA jurisdiction is prohibited unless as part of a public agency program for

control of noxious species, specific pests for quarantine, public health purposes, or for a crisis exemption.

**Section 22.** Prosser Municipal Code Section 16.04.29 is hereby enacted to read as follows:

**16.04.29 Boat and Vessel Facilities**

- A. All boating uses, development, and facilities shall protect the rights of navigation and shall demonstrate that they result in no net loss of ecological functions and may be required to provide on-site and off-site mitigation.
- B. Shared moorage serving single family use consisting of docks and piers with more than four berths, commercial moorage available to the general public, and moorage related to clubs or other groups not associated with a particular residential development are regulated as marinas under section 16.04.53.
- C. Joint-use/shared docks and piers with four (4) or fewer berths or any number of mooring buoys are regulated under this Section.
- D. Boating facilities shall:
  - 1) Avoid braided or meandering river channels where the channel is subject to change in alignment or on point bars or other accretion beaches;
  - 2) Avoid areas where shoreline modification is required for approach and other upland facilities;
  - 3) Not be located where adverse impact upland riparian or nearshore habitat for aquatic species is not avoided or adequately mitigated ;
  - 4) Not adversely affect flood channel capacity or create a flood hazard;
  - 5) Not be located where water depths for vessels are not adequate without dredging;
  - 6) Not be located in areas where wave action caused by boating use would increase erosion rates on shorelines; and
  - 7) Require a Conditional Use Permit at sites downstream of the Bureau of Reclamation Dam.
- E. Boating facilities, except those accessory to single family residences, shall provide public access in accordance with Section 16.04.25 of this program and shall be located and designed such that existing public access to public shorelines is not obstructed nor made hazardous.

- F. All in- and over-water structures shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Docks generally shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.
- G. Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations, a lease or other permission is obtained from the state and impacts to navigation and public access are mitigated.
- H. Boat Launches:
- 1) Boat launches accessory to single family and multi-family residential uses are prohibited.
  - 2) Private boat launches shall be allowed only for water-dependent uses and marinas and only when it is demonstrated that public boat launches will not feasibly serve the use. Rail and track systems are preferred over concrete ramps when feasible.
  - 3) New public boat launches for general public use, or expansion of public boat launches by adding launch lanes shall be approved only by Conditional Use and shall demonstrate that:
    - a. They are located downstream of accretion shoreforms, or on stable banks where no or minimal current deflections will be necessary.
    - b. Water depths are adequate to avoid the need for dredging and eliminate or minimize potential loss of shoreline ecological functions or other shoreline resources from offshore or foreshore channel dredging.
    - c. Adjacent residential properties will not be adversely affected by adverse proximity impacts such as noise, light, and glare, or scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.
    - d. Exterior lighting will prevent glare, and will avoid illuminating nearby residential property to unreasonably infringe on the use and enjoyment of such property. Methods of controlling spillover light include, but are not limited to, limits on height of supports, limits on light levels of fixtures, light shields, and screening.
    - e. Exterior lighting will not adversely impact aquatic species.
    - f. Adequate provisions are made for restroom, sewage, and solid waste disposal facilities in compliance with applicable health regulations.

- g. Access and parking shall not produce traffic hazards, shall not result in excessive noise or other impacts, shall minimize traffic impacts on nearby streets, and shall include adequate parking for boat trailers. Parking on public streets may be allowed for peak periods if it is demonstrated that such parking will not adversely impact through traffic or residential uses.
- I. New moorage to serve a single family residence may be allowed only if:
  - 1) An applicant demonstrates that existing facilities (boat launches and public and private marinas) are not reasonably available to meet demand.
  - 2) The lot does not have access to shared moorage in an existing subdivision and there is no homeowners association or other corporate entity capable of developing shared moorage.
  - 3) In cases where new dock or pier is approved, the City may require an agreement to share with nearby residences with water frontage and provide for expansion to serve such additional users.
- J. A dock or pier serving a single family residence shall meet the following standards:
  - 1) Length: A dock or pier (gangway and pier supported or floating structure combined) shall be long enough to obtain an adequate operating depth without disturbing the natural condition of the river bottom. Maximum length is thirty feet (30') unless a depth of six feet (6') cannot be obtained. In such circumstances the dock may be extended until the water depth reaches a point of six feet (6') in depth at ordinary low water, or to a maximum of forty feet (40'), whichever is reached first. The dimensional standards may be adjusted as required by the City in consultation with state and federal agencies if such adjustment will better preserve ecological functions.
  - 2) The maximum area of over water coverage is 160 square feet.
  - 3) To prevent damage to shallow water habitat, an access ramp shall bridge the distance between the shore and piers or floats and shall extend at least the distance between ordinary high water and extreme low water.
  - 4) Piers and ramps shall be no more than four (4) feet in width.
  - 5) Grating, or clear translucent material, shall cover the entire surface area of the pier and ramp. The open area of grating shall have a minimum of fifty percent (50%) open. Clear translucent material shall have greater than ninety percent (90%) light transmittance as rated by the manufacturer.

- 6) Floats shall not exceed a width of eight (8) feet. Flotation materials shall be permanently encapsulated to prevent breakup into small pieces and dispersal in water (e.g., rectangular float tubs). Grating for light penetration shall cover one hundred percent (100%) of the surface area of the float. The open area of the grating shall be no less than fifty percent (50%), as rated by the manufacturer.
  - 7) Covered moorage is prohibited.
  - 8) The bottom of the fascia boards on the pier or bottom of the landward edge of the ramp shall be at least two (2) feet above the horizontal plane of the OHWM.
  - 9) Floats shall be constructed and attached so that they do not ground out on the bottom of the river. Float stops, tubs, or similar structures may be used. A minimum of one (1) foot of elevation above the substrate is required.
  - 10) Pile spacing shall be the maximum feasible to minimize shading and avoid a “wall” effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment. Minimum pile spacing is eighteen (18) feet on the same side of any component of the overwater structure.
  - 11) Piling diameter shall be sized to use the minimum possible while meeting the structural requirements of expected loads. Generally, piling shall not exceed eight (8) inches in diameter.
  - 12) The dock shall be built with materials that do not leach preservatives or other materials. No treated wood of any kind shall be used on any overwater structure (float, pier, or ramp). No paint, stain, or preservative shall be applied to the overwater structure.
  - 13) Boat lifts or watercraft lifts (e.g., jet ski lifts) are included in the maximum allowable area of 160 square feet for over water structures and may be approved if the City and other permitting agencies find that the proposed boat lift minimizes structure cover, maximizes light penetration, and maximizes depth.
- K. Shared residential docks and piers shall generally meet the standards for single family docks above, except that the number of floats and the size of piers and other facilities may be increased to serve additional slips to provide one moorage space per residence served.
- L. Docks and piers shall be set back a minimum of ten (10) feet from side property lines, except that joint-use facilities may be located closer to, or upon, a side property line when agreed to by contract or covenant with the owners of the affected properties. This agreement shall be recorded with the County Auditor and a copy filed with the shoreline permit application.

M. Moorage related to subdivision:

- 1) New subdivisions shall contain a restriction on the face of the plat prohibiting individual docks. A site for community or shared moorage shall be designated on the plat and owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to lots with water frontage in the subdivision. The over-water area of the dock shall be made available to other lots and the public for community access and may be required to provide public access depending on the scale of the facility.
- 2) Approval of a shared moorage for a subdivision shall be subject to the following criteria:
  - a. There is no reasonably available public or private moorage that can serve the moorage needs of the residences or the subdivision.
  - b. Shared moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage. One moorage space per lot may not be presumed.
  - c. The size of a dock must consider the use of mooring buoys for some or all moorage needs and the use of all or part of the dock to allow tender access to mooring buoys.
  - d. Public access shall be provided in all shared docks utilizing public aquatic lands that accommodate five (5) or more vessels.
- 3) If a community or shared dock is not developed at the time of subdivision, a community association shall be established with the authority to levy assessments within the subdivision to construct and maintain a community dock in the future. The failure of a subdivision to develop a community or shared dock shall not affect the prohibition on individual docks.

N. Multi-family residences, hotels, motels, and other commercial developments proposing to provide moorage facilities shall meet the criteria for a marina. Use of the moorage must be open to the general public on the same basis as residents or occupants and shall provide public access. If approved, no more than one joint-use moorage facility may be provided for a parcel or development.

O. Applications for docks or piers serving single commercial or industrial enterprises shall demonstrate that:

- 1) The facility serves a water-dependent use;
- 2) The facility is the minimum size required to serve the proposed use, provided that provisions for expansion or future joint use may be provided; and

- 3) The facility minimizes impacts to the extent feasible. Where impacts are unavoidable, the facility mitigates impacts to navigation, aquatic habitat, upland habitat, public access to the water for recreation, fishing, and similar use, and public access to publicly accessible lands below the OHWM.

P. Commercial or industrial moorage facilities shall demonstrate that:

- 1) The dock or pier shall be the minimum length required to serve the use.
- 2) Access from the shore to piers or floats shall minimize water cover in order to minimize impacts to shallow water habitat,
- 3) Piers and ramps shall be elevated to provide the maximum feasible light penetration.
- 4) Grating, or clear translucent material, shall be utilized to the maximum extent feasible to provide light penetration.
- 5) Floats shall be constructed and attached so that they do not ground out on the bottom of the river.
- 6) Pile spacing shall be the maximum feasible to minimize shading and avoid a “wall” effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
- 7) Pile diameter shall be minimized while meeting structural requirements.
- 8) Covered structures may be permitted only to serve a water-dependent use where it is demonstrated that adequate upland sites are not feasible, and it is demonstrated that the area covered is the minimum necessary to serve the use.

**Section 23.** Prosser Municipal Code Section 16.04.30 is hereby enacted to read as follows:

#### **16.04.30 Shoreline Modification Regulations**

- A. In considering an application for a shoreline modification, the decision maker shall make findings that the following general principles are met. Appropriate studies by qualified professionals shall be required to document compliance.
  - 1) Shoreline modifications shall only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or structure or are necessary to allow a water-dependent use, or are necessary for shoreline mitigation, enhancement, or restoration purposes.

- 2) Modifications shall only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions. The adverse effects, as well as the number and extent of shoreline modifications, shall be minimized;
- 3) The individual and cumulative effects of shoreline modification shall not result in a net loss of ecological functions. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions. Mitigation of identified impacts resulting from shoreline modifications is required. Ecological impacts shall be avoided and mitigated in accordance with the mitigation sequence in Section 16.04.022.B of this program and WAC 173-26-201 (2)(e) as it now exists, or as it may be hereafter amended.

**Section 24.** Prosser Municipal Code Section 16.04.31 is hereby enacted to read as follows:

#### **16.04.31 Shoreline Stabilization**

- A. New development, including subdivision, shall be located and designed to avoid the need for future shoreline stabilization to the maximum extent feasible. New lots shall not be created by subdivision that require shoreline stabilization in order for reasonable development to occur. New development on steep slopes shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure. Proposed development that would require shoreline stabilization which would cause significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed. In all cases, compliance with this criterion shall be documented by geotechnical analysis by qualified professionals.
- B. The construction of shoreline protection for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit is prohibited.
- C. Shoreline stabilization shall be designed and constructed to avoid stream channel direction modification, realignment, and straightening or result in increased channelization of normal stream flows.
- D. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by natural processes rather than from upland conditions such as poorly managed stormwater or vegetation removal. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The erosion control structure shall not result in a net loss of shoreline ecological functions.

- E. Alternatives for shoreline stabilization shall be based on the following hierarchy of preference:
- 1) No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.
  - 2) Stabilization constructed of natural materials incorporating measures such as soft shore protection and bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
  - 3) Soft-shore stabilization, as described above, in combination with rigid works, as described below, constructed as a protective measure.
  - 4) Rigid works constructed of artificial materials such as riprap or concrete.
- F. Shoreline stabilization may be permitted to protect a water-dependent development, or single-family residences, when all of the conditions below have been demonstrated to apply and are documented by report prepared by a qualified professional:
- 1) The erosion is not being caused by upland conditions, such as the loss of vegetation and improper management of drainage.
  - 2) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
  - 3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
  - 4) The stabilization structure shall not result in a net loss of shoreline ecological functions.
  - 5) Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.
- G. Shoreline stabilization may be permitted to protect an existing non-water-dependent development when all of the conditions below are met as documented by report by a qualified professional:
- 1) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
  - 2) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

- 3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
  - 4) The affected structure cannot be feasibly located or relocated outside of the area affected by natural shoreline erosion processes.
  - 5) The stabilization structure will not result in a net loss of shoreline ecological functions.
  - 6) Where a geotechnical analysis confirms a need to prevent potential damage, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.
- H. Shoreline protection for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW, shall meet the conditions below and be documented by a qualified professional:
- 1) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
  - 2) The erosion control structure will not result in a net loss of shoreline ecological functions.
- I. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures, or public facilities (e.g., roads, bridges, railways, and utility systems) from erosion caused by stream undercutting or wave action. The existing shoreline stabilization structure must be removed from the shoreline as part of the replacement activity. The following conditions must be met and documented by a qualified professional:
- 1) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by stream geohydraulic processes.
  - 2) The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
  - 3) Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and overriding safety or environmental concerns exist. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
  - 4) Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

- 5) For purposes of this subsection, “replacement” means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
- J. A publicly-funded shoreline stabilization project shall include appropriate provisions for public access to the shoreline, not create barriers to public access if in existence, and incorporate ecological restoration measures if feasible.
- K. Bioengineered projects shall be designed by a qualified professional in accordance with best available science and shall incorporate a variety of native plants, unless demonstrated infeasible for the particular site.
- L. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this program are feasible, because of their limited durability and the potential hazard to shore users and the shoreline environment.

**Section 25.** Prosser Municipal Code Section 16.04.32 is hereby enacted to read as follows:

**16.04.32 Breakwaters, Jetties, and Groins**

- A. Breakwaters, jetties, rock weirs, and groins shall only be permitted by conditional use for navigational purposes, water dependent industry, and marinas where water-dependent uses are located waterward of the OHWM or to protect existing public facilities such as bridges.
- B. Breakwaters, jetties, rock weirs, and groins may be approved only if analysis by a qualified professional demonstrates that they are needed to protect existing or proposed facilities and if natural processes such as erosion and accretion processes, riparian habitat, channel migration, and floodplain functions will not be adversely affected or are mitigated by a specific program implemented over the lifespan of the effect.
- C. The design of new breakwaters, groins, and jetties shall incorporate provisions for public access and public fishing if such access is feasible and safe.

**Section 26.** Prosser Municipal Code Section 16.04.33 is hereby enacted to read as follows:

### 16.04.33 Flood Hazard Management

- A. New or substantially altered structural flood hazard reduction measures, such as dikes, levees, berms and similar flood control structures, shall be consistent with basin-wide flood control strategies in regional flood hazard management plans.
- B. Flood control structures shall be permitted for the following purposes only, as documented through a geotechnical or geofluvial analysis:
  - 1) They are necessary to protect existing development.
  - 2) Non-structural flood hazard reduction measures are infeasible.
  - 3) Impacts to ecological processes and functions, priority fish and wildlife species and habitats, and the aquatic food chain can be successfully mitigated to assure no net loss of functions.
  - 4) Measures are consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system.
- C. Public access shall be provided in accordance with public access policies and regulations of this program. If the project is publicly funded the design must provide appropriate public access to the shoreline, improve public access to the shoreline, and provide ecological restoration where feasible.
- D. Dike and levee design shall, to the maximum extent feasible be:
  - 1) Limited in size to the minimum height required to protect adjacent lands from the predicted flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for dike recertification.
  - 2) Placed landward of Fish and Wildlife Conservation Area and Wetland buffers unless there is no other feasible alternative to reduce flood hazard to existing development.
  - 3) Located and designed so as to protect and restore the natural character of the stream, avoid the disruption of channel integrity and provide the maximum opportunity for natural floodway functions to take place. Design must consider including levee setbacks to allow for more natural function of floodplains, channel migration zones, off channel habitat, and associated wetlands directly interrelated and interdependent with the stream.
  - 4) Incorporate appropriate vegetation management.

- E. All flood protection measures shall demonstrate that downstream flooding will not be increased and the integrity of downstream ecological functions will not be adversely affected, including disruption of natural drainage flows and stormwater runoff.
- F. Removal of materials from the river channel for flood management purposes may be allowed only as part of an adopted integrated flood control management program that demonstrates that other flood hazard reduction strategies would not be effective in the absence of gravel removal.

**Section 27.** Prosser Municipal Code Section 16.04.34 is hereby enacted to read as follows:

**16.04.34 Clearing and Grading, Fill**

- A. Clearing and grading activities in shoreline areas shall be allowed only in association with a permitted shoreline development and shall be limited to the minimum extent necessary to accommodate shoreline development. Clearing and grading shall retain natural features and functions, including natural topography, to the maximum extent feasible. Excavation waterward of the OHWM or within wetlands shall be considered dredging for purposes of this Program.
- B. Fill is restricted in wetlands or Fish and Wildlife Habitat Conservation Areas in accordance with Critical Areas regulations.
- C. Fill may not be placed in floodways. Fill may be placed in other flood hazard areas only where it is demonstrated that adverse impacts to hydrogeologic processes will be avoided and the provisions of PMC Chapter 15.20 are met.
- D. Fill below, or waterward, of the ordinary high water mark for any use except ecological restoration requires a conditional use permit. Fill may be placed below OHWM only when it is demonstrated as necessary to:
  - 1) Accomplish an aquatic habitat restoration plan;
  - 2) Correct the adverse results of a past shoreline modification that has disrupted natural stream geomorphic conditions and adversely affected aquatic or terrestrial habitat;
  - 3) Provide for cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
- E. Expand or alter transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible.

**Section 28.** Prosser Municipal Code Section 16.04.35 is hereby enacted to read as follows:

### 16.04.35 Dredging and Dredge Material Disposal

- A. Dredging shall be permitted only:
  - 1) For flood control purposes, as part of an adopted regional flood control plan;
  - 2) In conjunction with a water-dependent use of water bodies or adjacent shorelands where channel modification is essential to the water dependent use;
  - 3) As part of an approved habitat improvement project;
  - 4) In conjunction with a bridge, navigational structure, or wastewater treatment facility for which there is a documented public need and where other sites or methods are not feasible.
- B. New dredging shall be permitted only where it is demonstrated by a report by a qualified professional that it will avoid adverse impacts to water quality, Fish and Wildlife Habitat Conservation Areas and other Critical Areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of ecological functions.
- C. During a low water season, removal of a portion of an accretion point bar below OHWM but above the water level at the time of operation may be permitted as a Conditional Use for flood control purposes as follows:
  - 1) It is identified as an element of an adopted integrated flood control management program that demonstrates that other flood hazard reduction strategies would not be effective in the absence of material removal.
  - 2) Specific studies accompanying the application must demonstrate that no adverse flood, erosion, or other environmental impacts would occur either upstream or downstream of extraction sites, including the natural processes of gravel transportation for the river system as a whole.
- D. Dredge material disposal shall be permitted only at locations where it is demonstrated by analysis by a qualified professional that the disposal will not result in significant or ongoing adverse impacts to water quality, Critical Areas, flood holding capacity, natural drainage and water circulation patterns, prime agricultural land, or public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of functions.
- E. Disposal of dredge material within Fish and Wildlife Habitat Conservation Areas (FWHCA), wetlands, within a floodplain, or within a river's channel migration zone shall be allowed only

where alternative disposal sites are not feasible. In the limited instances where it is allowed, such disposal shall require a conditional use permit. Applicants shall demonstrate that:

- 1) The proposed dredge materials disposal site is subject to an approved use under this program that:
  - a. Is an element of an approved restoration plan for aquatic or upland fish and wildlife habitat.
  - b. Will create, expand, rehabilitate, or enhance a beach that provides public recreation opportunities and is permitted under this program.
  - c. If on private land, the site will ultimately be suitable for a use permitted by this program or will be subject to buffer or other open space restrictions.
- 2) The smallest possible land area is affected.
- 3) Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable (e.g. combination of fencing and vegetation).
- 4) Sites will be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions.
- 5) Shoreline ecological functions and processes will be preserved, including protection of riparian buffers and surface and ground water.

**Section 29.** Prosser Municipal Code Section 16.04.36 is hereby enacted to read as follows:

#### **16.04.36 In-Stream Structures**

- A. In-stream structures may be allowed only when the public benefits of such facilities clearly outweigh any loss of ecological processes and functions, and only when an analysis of alternatives demonstrates that the proposed location and design would result in less adverse impact than alternative locations and designs. Docks, piers and marinas are not regulated as “in-stream structures” under this section of the SMP.
- B. In-stream structures may be approved only for:
  - 1) Water-dependent use where the in-stream structure is essential to operation of the use.
  - 2) A project that has received Governor’s certification pursuant to chapter 80.50 RCW.
  - 3) A project that has received approval and licensing by the Federal Energy Regulatory Commission.

- 4) Projects that are part of the Bureau of Reclamation Yakima River Project.
- C. All in-stream structures shall demonstrate that they result in no net loss of ecological functions and detail all mitigation measures, include detailed mitigation plans, timetables for implementation and a monitoring program.
- D. In-stream structures and their support facilities shall be located and designed to minimize the need for shoreline stabilization structures. When shoreline stabilization structures are demonstrated as necessary, they shall be approved in accordance with Section 16.04.030 Shoreline Stabilization.
- E. In-stream structures and associated facilities shall avoid, and where avoidance is not feasible shall mitigate, adverse land use impacts including impacts to public access facilities, publicly owned lands or waters used for recreation, and public and private recreation facilities. Impacts to be avoided include the visual impact of the structure or facilities, the intrusion of roads or utility corridors into undeveloped area used for recreation, noise, and visual impacts from reduced water flows.
- F. In-stream structures shall be designed and constructed to provide public access to and along the shoreline, in accordance with the public access policies and regulations contained in this Section 16.04.024. Existing public access and recreational opportunities should be retained, enhanced, or replaced.

**Section 30.** Prosser Municipal Code Section 16.04.40 is hereby enacted to read as follows:

**16.04.40 Development Standards and Use Regulations**

- A. Shoreline uses are preferred that are unique to or dependent upon uses of the state’s shoreline areas and are consistent with the control of pollution and prevention of damage to the natural environment,
- B. All shoreline uses shall demonstrate that they result in no net loss of ecological processes and functions through incorporation of features or mitigation, including off-site mitigation to protect the land and its vegetation and wildlife.
- C. All shoreline uses shall protect the public’s health, safety, and welfare, and the property rights of others while implementing the policies of the Shoreline Management Act.

**Section 31.** Prosser Municipal Code Section 16.04.41 is hereby enacted to read as follows:

### 16.04.41 Permitted Use Table

- A. The following table determines which shoreline uses are allowed or prohibited in each shoreline environment.
- B. Land uses allowed are subject to the preference for water-oriented uses and subject to specific criteria for uses and shoreline modification included in these regulations.
- C. Uses allowed in the Aquatic Environment are those allowed in the adjacent upland environment and limited to water-dependent use, ecological enhancement, and those transportation and utility facilities and Essential Public Facilities for which no alternative location is feasible.
- D. Land uses in the underlying zoning that require a conditional use permit in the underlying zoning district, require a shoreline conditional use permit.
- E. If a use is prohibited in the underlying zoning district, it is also prohibited in shoreline management act jurisdiction.
- F. KEY: X= Prohibited, P= Permitted, CU= Conditional Use Permit, PA=Permitted only as an accessory to a permitted use, Z = Permitted subject to underlying zoning.
- G. A use is considered unclassified when it is not listed in the in the Shoreline Modifications and Uses Regulations and is allowed in underlying zoning. A proposed unclassified use may be authorized as a conditional use provided that the applicant can demonstrate consistency with the requirements of this Master Program and the requirements for conditional uses.

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
<b>Resource</b>							
Aquaculture	CU	CU	CU	CU	CU	X	X
Agriculture, except for dairying, poultry raising, and livestock	P	P	X	X	X	X	X
Dairying; poultry raising; livestock; and labor camps	X	X	X	X	X	X	X
Mining	X	X	X	CU	X	X	X
<b>Residential</b>	X	X	X	X	X	X	X
One single family dwelling per lot	Z	Z	Z	Z	P	CU	CU
Duplex	X	X	X	X	Z	X	X

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
Multifamily	X	Z	X	X	Z	X	X
Mobile home park	X	X	X	X	Z	X	X
Accessory Dwelling Unit (RCW 43.63A.215)	X	X	X	X	P	X	X
Bed and breakfast	X	Z	X	X	CU	X	X
Home occupation	X	X	X	X	Z	X	X
<b>Public and Quasi Public Uses</b>							
Boat launches	CU	CU	CU	CU	CU	CU	CU
Public recreational facilities	P	P	P	P	P	P	CU
Private recreational facilities	P	P	P	P	CU	P	X
Campgrounds	X	CU	CU	X	X	X	X
Golf courses	CU	X	X	X	CU	X	CU
Trails hard surface	P	P	P	P	P	P	CU
Trails soft surface	P	P	P	P	P	P	P
Commercial recreation: Fitness centers/sport clubs	X	X	P	X	X	X	X
Commercial amusement facilities	X	X	X	X	X	X	X
Civic and community buildings	CU	CU	CU	CU	CU	CU	X
Public or private schools	CU	CU	CU	CU	CU	CU	X
Government offices	CU	CU	CU	CU	CU	CU	X
Nursery school and day care center	X	X	Z	X	CU	X	X
Family day care center (RCW 35.63.185)	X	X	P	X	P	X	X
Museums	CU	CU	CU	CU	CU	CU	X
Nursing homes, homes for the aged	X	X	Z	X	X	X	X
Hospitals and health care facilities	X	X	CU	X	X	X	X
Churches	CU	CU	CU	CU	CU	CU	X
Irrigation facilities, dams, canals,	CU	CU	CU	CU	CU	CU	CU

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
etc.							
Essential public facilities	CU	CU	CU	CU	CU	CU	CU
<b>Commercial/Retail</b>	X	X	X	X	X	X	X
Marine sales, service, and rental	X	P	P	X	X	X	X
Marina	X	CU	CU	X	CU	X	X
Bakeries, barber and beauty shops, etc.	X	P	P	X	X	X	X
Commercial laundry and dry cleaning	X	X	CU	X	X	X	X
Retail uses	X	P	P	X	X	X	X
Restaurants	X	P	P	CU	X	X	X
Drinking establishments	X	P	P	PA	X	X	X
Hotel and motel	X	P	P	X	X	X	X
Banqueting halls	X	P	P	X	X	X	X
Resort	X	P	P	X	X	X	X
Recreation vehicle parks	X	X	Z	X	X	X	X
Theaters and amphitheaters	X	P	P	X	X	X	X
Veterinarians and kennels	X	X	X	X	X	X	X
Offices serving a permitted use	P	P	P	P	P	P	X
Offices as a primary use	X	X	X	X	X	X	X
Printing and publishing	X	X	Z	X	X	X	X
On-site hazardous waste treatment and storage	X	X	X	X	X	X	X
Nurseries and greenhouses	P	CU	X	CU	X	X	X
Lumber and building materials	X	X	P	CU	X	X	X
Automotive, truck, RV sales and service	X	X	X	X	X	X	X
Gasoline service station	X	X	X	X	X	X	X
<b>Industrial</b>							

<b>Use</b>	<b>Agribusiness</b>	<b>Agri-Tourism</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Residential</b>	<b>Recreation</b>	<b>Urban Conservancy</b>
Water-dependent industrial	Z	Z	X	P	X	X	X
Water-related industrial	Z	Z	X	P	X	X	X
Water-oriented industrial	Z	Z	X	P	X	X	X
Agriculture products processing	P	X	X	P	X	X	X
Wineries, including sales	P	P	P	P	X	X	X
Microbreweries	P	P	P	P	X	X	X
Municipal and utility yards	X	X	X	CU	X	X	X
Solid waste processing or disposal	X	X	X	X	X	X	X
Hazardous materials processing or disposal	X	X	X	X	X	X	X
Commercial moving and storage	X	X	X	X	X	X	X
Vessel repair	X	X	X	P	X	X	X
Equipment supply, repair, service	X	X	X	X	X	X	X
Manufacturing, other than food processing	X	X	X	P	X	X	X
Sale of items manufactured on-site	P	P	X	P	X	X	X
Industrial and scientific research laboratories	X	X	X	P	X	X	X
Petroleum, coal, fuel storage distribution	X	X	X	X	X	X	X
Junk or salvage yards	X	X	X	X	X	X	X
Solid waste processing or disposal	X	X	X	X	X	X	X
Hazardous materials processing or disposal	X	X	X	X	X	X	X
Warehouses, storage, distribution	X	X	X	P	X	X	X
<b>Transportation</b>							
Roads and railroads serving shoreline uses	P	P	P	P	P	P	P
Roads and railroads NOT serving shoreline uses	CU	CU	CU	CU	CU	CU	CU

<b>Use</b>	<b>Agribusiness</b>	<b>Agri-Tourism</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Residential</b>	<b>Recreation</b>	<b>Urban Conservancy</b>
Park-and-Ride lots	X	X	X	X	X	X	X
Parking areas and facilities serving a primary use within the shoreline	P	P	P	P	P	P	P
Parking areas and facilities NOT serving a primary use within the shoreline	X	X	X	X	X	X	X
Parking as a principal use	X	X	X	X	X	X	X
<b>Utilities</b>							
Public and private utility distribution serving shoreline uses, water, sewer, electrical, gas, and communication	P	P	P	P	P	P	CU
Public and private utility distribution serving uses within the city	P	P	P	P	P	P	CU
Utility facilities serving uses not within the City	CU	CU	CU	CU	CU	CU	CU
Electrical transmission of greater than 50 Kilovolts	CU	CU	CU	CU	CU	CU	CU
Gas transmission larger than 6 inches in diameter	CU	CU	CU	CU	CU	CU	CU
Oil or other pipelines	CU	CU	CU	CU	CU	CU	CU
Utility buildings (pump stations, etc.)	CU	CU	CU	CU	CU	CU	CU
Electrical substations	CU	CU	CU	CU	X	X	X

**Section 32.** Prosser Municipal Code Section 16.04.42 is hereby enacted to read as follows:

**16.04.42 Shoreline Bulk Standards**

The following table determines bulk standards in each shoreline environment.

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
<b>Fish and Wildlife Conservation Area Buffer from OHWM</b>							
<b>If not established by Table 16.04.043</b>							
Water Dependent Use <sup>1</sup>	NA	NA	NA	NA	NA	NA	NA
Water Related Use	100'	150'	150'	150'	50' <sup>2</sup>	50'	200
Water Enjoyment Use	100'	150'	150'	150'	50' <sup>2</sup>	50'	200
Non-Water-Oriented Use	150'	150'	150'	150'	50' <sup>2</sup>	50'	200
<b>Building Setback from Critical Areas Vegetation Buffer</b>	15'	15'	15'	15'	15'	15'	25'
<b>Building Setback from OHWM if no Critical Areas Vegetation Buffer is required</b>							
Water Dependent Use <sup>1</sup>	NA	NA	NA	NA	NA	NA	NA5
Water Related Use	25'	25'	25'	25'	50' <sup>2</sup>	25'	25'
Water Enjoyment Use	75'	75'	75'	75'	50' <sup>2</sup>	75'	75'
Non-Water-Oriented Use	100'	100'	100'	100'	50' <sup>2</sup>	100'	150
<b>Maximum Height</b>	35'	35'	35'	35'	35'	35'	25'
<b>Maximum Impervious Surface outside of Critical Area Buffers<sup>3</sup></b>							
Water Dependent Use <sup>4</sup>	NA	NA	NA	NA	NA	NA	NA5
Water Related Use	70%	70%	70%	50%	50%	40%	NA5
Water Enjoyment Use	50%	50%	50%	50%	50%	40%	NA5
Non-Water-Oriented Use	40%	40%	40%	40%	50%	20%	NA5
<b>Minimum Lot Size</b>	As established by underlying zoning						
<b>Minimum Lot Width</b>	As established by underlying zoning						
<b>Minimum Lot Depth</b>	As established by underlying zoning						
<b>Front Setback</b>	As established by underlying zoning						
<b>Street Setback</b>	As established by underlying zoning						

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
Side Setback	As established by underlying zoning						
Rear Setback	As established by underlying zoning						
Density	As established by underlying zoning						

*Table Notes:*

1. No vegetated buffer or building setback is required for those elements of a Water-Dependent Use that requires direct access to the water. Other elements of the use are subject to the buffer standards for water-related uses.
2. Does not apply to area within Critical Areas Vegetation buffer, which is normally 0% impervious, does not include impervious area of required public access facilities or private trails.
3. Building setbacks may be adjusted to the average of existing setbacks of the two lots on either side of the subject lot, provided that Critical Areas buffers are complied with.
4. No impervious surface limit applies to those elements of a Water-Dependent Use that requires direct access to the water. Other elements of a water dependent use not requiring direct access to the water are subject to the imperious standards for water-related uses.
5. Applies to all Shoreline Environmental Designations: Standards for Transportation and utility facilities are determined by specific conditions at the time of approval of new facilities or expansion of existing facilities.

**Section 33.** Prosser Municipal Code Section 16.04.43 is hereby enacted to read as follows:

**16.04.43 Shoreline Reach Performance Standards**

The following table determines performance standards for each shoreline reach.

<b>Code Reach</b>	<b>Inventory Reach</b>	<b>Shoreline Environment Designation</b>	<b>Public Access Guidelines</b>	<b>Riparian Buffers</b>
A	Reach 1a	Residential	<p>Opportunities for public access along the river are limited due to existing residences, short of future redevelopment at a density that would trigger requirements.</p> <p>A trail system could follow the road with visual access to the water through gaps in the vegetation cover.</p>	30 foot riparian buffer with provision for minimum 10 foot buffer adjacent to existing structures, largely to control runoff including waterborne fertilizers, pesticides and herbicides
B	Reaches 1a and 1b	Parallel From Byron Road to Water: Recreation From Road Inland: Industrial	<p>Public access trail along the water adjacent to the road.</p> <p>Use of the road for vehicular traffic may be phased out as alternative access is provided to future subdivisions and sections of the existing roadway are narrowed and used exclusively as a trail.</p>	Riparian buffer ends at the edge of the maintained portion of the road
C	Reach 2a part	Recreation	Public access is one feature to be included in management of the park. Trails generally should retain vegetation buffers with managed access points to the water's edge.	Maintain and enhance buffer as part of a park management plan, except at boat launch ramp
D	Reach 2a part	Residential	Opportunities for public access along the river are limited due to existing residences, short of future redevelopment at a density that would trigger requirements.	50 foot riparian buffer
E	Reach 2b	Commercial	Public access area is mandatory if future use is not water dependent.	30 foot riparian buffer, or 10 feet from the top of a 40% slope higher than 10 feet

<b>Code Reach</b>	<b>Inventory Reach</b>	<b>Shoreline Environment Designation</b>	<b>Public Access Guidelines</b>	<b>Riparian Buffers</b>
F	Reach 2a part	Residential	Opportunities for public access are limited to improvements to existing street ends due to the retention of existing single family lots under existing zoning.	30 foot riparian buffer, or 10 feet from the top of a 40% slope higher than 10 feet
G	Reach 3a part	Industrial	Informal public access available along the existing alley and provides visual access. This may be formalized and enhanced for better public viewing experience.	No buffer – water-dependent use USBR Dam
H	Reach 3a part	Recreation	Public access is one feature to be included in management of the park. Visual access should be provided at the top of the slope with managed access points to the water's edge.	Maintain and enhance buffer as part of a park management plan
I	Reach 3a part	Residential	Opportunities for public access are limited to improvements to existing street ends due to the retention of existing single family lots under existing zoning.	30 foot riparian buffer, or 15 feet from the top of a 40% slope higher than 10 feet
J	Reach 3b	Industrial	Public access area is mandatory if future use is non-water dependent or if existing use expands substantially. Public access should consist of a trail paralleling the water at the top of the bluff. Access to the water's edge may be considered if it will not adversely affect ecological functions.	30 foot riparian buffer, or 25 feet from the top of a 40% slope higher than 10 feet
K	Reach 3c part	Agri-Business	Public access area is mandatory if future use is non-water dependent. Public access should consist of a trail paralleling the water at the top of the bluff. Access to the water's edge may be considered if it will	Extent of floodplain or 25 feet from top of slope, not to exceed shoreline jurisdiction

<b>Code Reach</b>	<b>Inventory Reach</b>	<b>Shoreline Environment Designation</b>	<b>Public Access Guidelines</b>	<b>Riparian Buffers</b>
			not adversely affect ecological functions.	
L	Reach 4a part	Agri-Business	Public access area is mandatory if future use is non-water dependent. Public access should consist of a trail paralleling the water at the top of the bluff. Access to the water's edge may be considered if it will not adversely affect ecological functions.	Extent of floodplain plus 25 feet from top of slope, not to exceed shoreline jurisdiction
M	Reach 4a part	Residential	Public access area is mandatory if future use is more than 4 units, or non-water dependent. Public access should consist of a trail paralleling the water at the top of the bluff. Access to the water's edge may be considered if it will not adversely affect ecological functions.	60 feet or 15 feet from top of slope
N	Reach 4a	Industrial	Public access area is mandatory if future use is non-water dependent or if existing use expands substantially. Public access should consist of a trail paralleling the water at the top of the bluff. Access to the water's edge may be considered if it will not adversely affect ecological functions.	Extent of floodplain plus 25 feet from top of slope, not to exceed shoreline jurisdiction
O	Reach 4b	Industrial	Public access would need to be carefully controlled to avoid adverse impacts to the largest area of relatively intact riparian habitat in the city.	Extent of floodplain plus 25 feet from top of slope, not to exceed shoreline jurisdiction
P	Reach 5a part	Residential	Public access area will be implemented in subdivisions of more than 5 lots, a continuous trail system located behind the critical area buffer parallel to the shoreline	From the north-south extension of S. Moore Road to the east-west extension of W North River Road – 65 foot riparian buffer

<b>Code Reach</b>	<b>Inventory Reach</b>	<b>Shoreline Environment Designation</b>	<b>Public Access Guidelines</b>	<b>Riparian Buffers</b>
			to provide common use by residents and the public..	North of the east-west extension of W North River road - 30 foot riparian buffer
Q	Reach 5c	Agri-Tourist	Public access area will be implemented in future development consisting of a continuous trail system located behind the critical area buffer located parallel to the shoreline to provide common use by users within the development and the public..	75 foot riparian buffer
R	Reach 5d	Residential	This single family lot would not be required to provide public access.	50 foot riparian buffer
S	Reach 6a	Public Land	Public access should be carefully controlled to avoid adverse impacts to this relatively intact riparian habitat.	200 foot riparian buffer
T	Reach 6b	Agribusiness	Public access area is mandatory if future use is non-water dependent and should consist of a trail paralleling the water at the top of the bluff. Access to the water's edge may be considered if it will not adversely affect ecological functions.	100 foot riparian buffer to 25 feet above top of slope

**Section 34.** Prosser Municipal Code Section 16.04.50 is hereby enacted to read as follows:

## **16.04.50 Shoreline Use Performance Standards**

**Section 35.** Prosser Municipal Code Section 16.04.51 is hereby enacted to read as follows:

### **16.04.51 Agriculture**

- A. This Program shall not restrict lawfully existing agriculture activities that have not been discontinued for more than five (5) years. An agricultural use shall not be considered discontinued if it is allowed to lie fallow in which it is plowed and tilled but left unseeded; allowed to lie dormant as a result of adverse agricultural market conditions; or allowed to lie dormant because the land is enrolled in a local, state, or federal conservation program.
- B. All new agricultural activities and facilities are governed by this Program and shall observe the Critical Area standards and buffer requirements of this Program except for replacement of agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility.
- C. Agricultural activities shall follow recognized best management practices that improve or maintain water quality and quantity, reduce soil erosion, maintain, or improve soil conditions, and provide for wildlife habitat. The applicant is encouraged to coordinate with the County Conservation District and the Natural Resources Conservation Service in the development of best management practices for their agricultural activity.
- D. Low Intensity Livestock Activities are those involving less than one (1) Animal Management Unit (AMU) per acre of managed pasture and are preferred within the shoreline outside of buffers.
- E. New intensive agricultural activities such as animal feeding operations/concentrated animal feeding operations (AFO/CAFOs) are prohibited.
- F. Row cropping requiring intensive application of fertilizers, animal waste, herbicides, and pesticides shall be located outside of shoreline areas, unless the proposed use is within an established agricultural area and no alternative agricultural activity is feasible. New intensive agricultural activities shall be implemented in accordance with a farm conservation plan including a monitoring program that assures no net loss of ecological functions.
- G. The construction of a barn or similar agricultural structure is exempt from obtaining a substantial development permit, but shall comply with the regulations of the program.

**Section 36.** Prosser Municipal Code Section 16.04.52 is hereby enacted to read as follows:

**16.04.52 Aquaculture**

- A. Aquacultures is a preferred water-dependent use but may be permitted only if impacts to ecological resources and existing land uses can be mitigated.
- B. No aquatic species shall be introduced into City waters without prior written approval of the appropriate state or federal regulatory agency for the species proposed for introduction. Such approval(s) shall be submitted in writing to the City as part of the shoreline permit application.
- C. Fish net-pens shall not occupy more than one-quarter (1/4) surface acre of water, excluding booming and anchoring equipment and shall be located greater than one (1) mile from all other aquaculture facilities.
- D. No processing of any aquaculture product, except for the sorting or culling of the cultured species and the washing or removal of surface materials or species after harvest, shall occur in or over the water. All other processing activities and facilities shall be located on land.
- E. Periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts.
- F. Aquaculture structures and activities that are not water-dependent (including but not limited to, warehouses for storage of products, parking and loading facilities) shall be located landward of the OHWM and landward of water dependent portions of the project, and shall minimize detrimental impacts to the shoreline.

**Section 37.** Prosser Municipal Code Section 16.04.53 is hereby enacted to read as follows:

### 16.04.53 Marinas

- A. These provisions apply to all vessel moorage facilities serving 5 or more vessels.
- B. Proposals for new marinas must provide sufficient evidence that existing public boat launches, dry storage, and moorage is not adequate to meet regional demand for recreational boating and that development of new marinas would result in fewer environmental impacts than expansion of existing facilities.
- C. In order to protect shoreline ecological functions, efficiently use shoreline space and minimize consumption of water surfaces. Boat facilities in order of preference are as follows:
  - 1) Upland dry land boat storage with a launch mechanism.
  - 2) Mooring buoys with a small lighter dock to provide access to the buoy.
  - 3) In-water mooring docks. These may be approved only where it is demonstrated that more preferred options are not feasible, or it can be demonstrated that in-water mooring docks would result in fewer impacts to shoreline ecological functions or enhance public use of the shoreline.
- D. Applications for marinas with in-water moorage may be approved as a Conditional Use if it is demonstrated that:
  - 1) Public navigation will not be impeded.
  - 2) The location will not result in displacement of wetlands or interrupt natural processes, erosion, or deposition.
  - 3) Water depths are adequate without initial or maintenance dredging.
  - 4) The location will not require shoreline armoring to compensate for fluvial processes.
  - 5) The location will not reduce existing public use of the water or shoreline including fishing, swimming and boating.
  - 6) Adverse water quality impacts will not result from inadequate flushing of moorage or enclosed water areas.
  - 7) Impacts to riparian buffers and nearshore aquatic habitat will be minimized. Impact minimization may require provision of upland buffers with limited corridors for movement between upland and in-water facilities.

- 8) Setbacks from adjacent non-commercial properties are adequate to attenuate proximity impacts such as noise, light, and glare, and may address scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.
  - 9) Facilities including piers, floats, boat launches, and other elements will be located and designed to minimize changes in hydraulic and fluvial processes, minimize potential flood hazards, and to not limit channel migration in areas where such processes are not currently constrained.
  - 10) Exterior lighting will avoid illuminating nearby properties used for non-commercial purposes and to prevent hazards for public traffic. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields and screening.
  - 11) Exterior lighting will not adversely impact aquatic species.
  - 12) Adequate provisions are made for restroom, sewage, and solid waste disposal facilities in compliance with applicable health regulations.
  - 13) Access and parking shall not produce traffic hazards, shall not result in excessive noise or other impacts, and shall minimize traffic impacts on nearby streets.
  - 14) On-site parking supply shall be adequate to meet peak demands. Location of parking shall be in accordance with parking standards in this program.
- E. Covered moorage is prohibited.
- F. Marinas shall provide public access amenities over public aquatic lands equivalent to a minimum 10 percent of over-water coverage and shall provide public walkway access to a public street and may be required to provide public parking including handicapped access.

**Section 38.** Prosser Municipal Code Section 16.04.54 is hereby enacted to read as follows:

#### **16.04.54 Commercial Development**

- A. New commercial uses and developments are subject to the following use preference:
- 1) Water-Dependent Uses: Water-dependent commercial uses shall be given preference over water-related and water-enjoyment and non-water-oriented commercial uses. Prior to approval of water-dependent uses, the City shall review a proposal for design, layout, and operation of the use and shall make specific findings that the use qualifies as a

water-dependent use. Water-dependent commercial uses shall provide public access in a manner that will not interfere with the water-dependent aspects of the use. The portion of a site not required for water-dependent use may include multiple use, approved non-water-oriented uses, ecological restoration, and public access.

- 2) Water-Related Uses: Water-related commercial uses shall not be approved if they displace existing viable water-dependent uses. Prior to approval of a water-related commercial use, review of the design, layout, and operation of the use shall confirm that the use has a functional requirement for a waterfront location, or the use provides a necessary service supportive of water-dependent uses, and/or the proximity of the use to its customers makes its services less expensive and/or more convenient. Multiple use development within 100 feet of the OHWM shall reserve the ground level for water-oriented use to the extent feasible.
- 3) Water-Enjoyment Uses: Water-enjoyment commercial uses shall not be approved if they displace existing viable water-dependent or water-related uses or if they occupy space designated for water-dependent or water-related use identified in a substantial development permit or other approval. Prior to approval of a water-enjoyment use, review of the design, layout, and operation of the use shall confirm that the use facilitates public access to the shoreline, or the use provides for aesthetic enjoyment of the shoreline for a substantial number of people as a primary characteristic of the use. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.
- 4) Non-Water Oriented Uses: Non-water-oriented commercial uses may be permitted where:
  - a. Located on a site physically separated from the shoreline by another private property in separate ownership or a public right-of-way such that access for water-oriented use is precluded, or
  - b. On a site where navigability is severely limited such that water-dependent use is not feasible, or

- c. The use will be part of a multiple use project that provides significant public benefit with respect to the objectives of the SMA including public access and ecological restoration; or
  - d. The use will be part of a mixed use project including water-dependent and non-water-oriented uses.
- B. All non-water dependent uses shall provide significant public benefit with respect to the objectives of the SMA by:
- 1. Restoring ecological functions in aquatic and upland environments that will provide native vegetation buffers according to the provisions of the Restoration Element of this Program and other relevant plans and policies including the WRIA 37 Salmon Restoration Plans; and
  - 2. Providing public access in a manner consistent with ecological restoration and associated buffers.
- C. Commercial development in the shoreline shall meet the criteria of no-net-loss of ecological functions and the preferred sequence for mitigation of impacts as provided in Section 16.04.022.B of this Program. The use shall be located and designed to maintain required buffers and maintain or enhance shoreline ecological functions including shoreline geomorphic processes, water quality, fish and wildlife habitat, and the aquatic food chain in general. Only water-dependent elements of a proposal may encroach on required vegetated buffers and those must retain as much of the buffer as possible while accommodating the use.
- D. Over-water structures, or other structures waterward of the OHWM, are allowed only for those portions of water-dependent commercial uses that require over-water facilities as an essential feature of their function or for public recreation and public access facilities. Design of over-water structures or structures beyond the OHWM shall demonstrate that they will not interfere with normal stream geomorphic processes, require additional future shoreline stabilization, or interfere with navigation or normal public use of the water.

- E. All new or expanded commercial uses shall take into consideration the scenic and aesthetic qualities of the shoreline and compatibility with adjacent uses. They shall make adequate provisions such as location of structures, location of parking and other facilities, landscape screening, fences, and other measures to protect the privacy and enjoyment of adjacent land uses and open space areas.
- F. Accessory development or uses that do not require a shoreline location such as parking, service buildings or areas, access roads, utilities, signs, and storage of materials shall be located outside of SMA jurisdiction wherever feasible. Siting within SMA jurisdiction should be limited to facilities required to serve approved water-oriented uses and/or developments and should be located inland away from the land/water interface and landward of water-oriented developments.
- G. Signs for all development and uses shall comply with the City of Prosser Sign Code and this Program.

**Section 39.** Prosser Municipal Code Section 16.04.55 is hereby enacted to read as follows:

**16.04.55 Industrial**

- A. New industrial use and development is subject to the following use preference:
  - 5) Water-Dependent Uses: Water-dependent industrial uses shall be given preference over water-related and water-enjoyment industrial uses. Prior to approval of water-dependent uses, the City shall review a proposal for design, layout, and operation of the use and shall make specific findings that the use qualifies as a water-dependent use. Water-dependent industrial uses shall provide public access in a manner that will not interfere with the water-dependent aspects of the use. The portion of a site not required for water-oriented use may include multiple use, approved non-water-oriented uses, ecological restoration, and public access.
  - 6) Water-Related Uses: Water-related industrial uses shall not be approved if they displace existing viable water-dependent uses. Prior to approval of a water-related industrial use, review of the design, layout, and operation of the use shall confirm that the use has a functional requirement for a waterfront location, or the use provides a necessary service supportive of the water-dependent uses, and/or the proximity of the use to its customers makes its services less expensive and/or more convenient. Mixed use development within

100 feet of the OHWM that incorporates water-dependent use may not include non-water-oriented uses at the ground level.

- 7) Non-Water-Oriented Uses: Non-water-oriented industrial uses are likely to be most common in Prosser and may be permitted where the use is:
  - a. Located on a site physically separated from the shoreline by another private property in separate ownership or a public right-of-way, or other public facility, or are isolated from the water by a substantial difference in topography; or
  - b. On a site where navigability is severely limited such that water-dependent use is not feasible; or
  - c. Part of a mixed use project that provides significant public benefit with respect to the objectives of the SMA.
- B. Industrial development in the shoreline shall meet the criteria of no-net-loss of ecological functions and the preferred sequence for mitigation of impacts as provided in Section 16.04.022.B of this Program. Only water-dependent elements of a proposal may encroach on required Critical Area buffers.
- C. All non-water-dependent uses shall provide significant public benefit with respect to the objectives of the SMA by:
  - 1) Restoring ecological functions both in aquatic and upland environments that will provide native vegetation buffers according to the Critical Areas regulations, the Restoration Plan of this Program and other plans and policies including the WRIA 37 Salmon Restoration Plans; and
  - 2) Providing public access consistent with the criteria and standards of Section 16.04.025.
- D. Accessory development or use that does not require a shoreline location such as parking, service buildings or areas, access roads, utilities, signs, and storage of materials shall be located outside of SMA jurisdiction wherever feasible. Siting within SMA jurisdiction should be limited to facilities required to serve approved water-oriented uses and/or developments and should be located inland away from the land/water interface and landward of water-oriented developments.
- E. All new or expanded industrial developments shall take into consideration the scenic and aesthetic qualities of the shoreline and compatibility with adjacent uses, including public use

of the water. They shall make adequate provisions such as location of structures, location of parking and other facilities, landscape screening, fences, and other measures to protect the privacy and enjoyment of adjacent land uses.

- F. Public access to the shoreline shall be provided in accordance with the standards in Section 16.04.025, provided said access does not compromise the integrity or operation of the use, does not threaten the safety and welfare of the general public, does not interfere with an existing adjacent use, and does not compromise existing ecological functions. In cases where on-site public access is not provided, alternative off-site facilities may be provided in accordance with provisions of this program.
- G. Signs for all development and uses must comply with the Prosser Sign Code and this Program.

**Section 40.** Prosser Municipal Code Section 16.04.56 is hereby enacted to read as follows:

**16.04.56 Recreation**

- A. Recreation facilities within SMA jurisdiction are preferred that are water-oriented or provide public access to the water.
- B. Recreation facilities and activities are permitted when they do not displace water-dependent uses and are consistent with existing water-related and water-enjoyment uses. State-owned shorelines shall be recognized as particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public in accordance with RCW 90.58.100(4).
- C. Recreation development in the shoreline shall meet the criteria of no-net-loss of ecological functions and the preferred sequence for mitigation of impacts as provided in Section 16.04.022.B of this Program. The use shall be located and designed to maintain or enhance shoreline ecological functions. The use or development shall be located and designed to maintain required buffers and maintain or enhance shoreline ecological functions including shoreline geomorphic processes, water quality, fish and wildlife habitat, and the aquatic food chain in general. Only water-dependent elements of a proposal may encroach on required vegetated buffers.
- D. Development of public recreation facilities shall implement, where applicable, the elements within the City Parks and Recreation Plan.

- E. The highest priority for recreational development on the shoreline shall be to provide the maximum possible amount of public access to the shoreline as follows:
  - 1) Water-dependent recreation such as fishing, swimming, boating, and wading.
  - 2) Water-related recreation as picnicking, hiking, and walking should be located near the shoreline.
  - 3) Non-water-related recreation facilities shall be located inland. Recreational facilities with large grass areas, such as playing fields and facilities with extensive impervious surfaces, shall be located as far from the water as feasible.
- F. New over-water structures for recreation use shall be allowed only when:
  - 1) They accommodate water-dependent recreation use or facilities, or
  - 2) They allow opportunities for substantial numbers of people to enjoy the shorelines of the state, and
  - 3) They are not located in or adjacent to areas of exceptional ecological sensitivity, especially aquatic and wildlife habitat areas, and
  - 4) No net loss of ecological functions will be achieved.
- G. Private recreation uses and facilities that utilize public aquatic lands shall provide public access as provided in Section 16.04.025 or shall provide improved, compensating public access at other locations.
- H. Motorized vehicular access including the use of all-terrain and off-road vehicles in the shoreline area is prohibited, except for boat launching and maintenance activities and except where specific areas for such use are set aside and controlled by a public entity

**Section 41.** Prosser Municipal Code Section 16.04.57 is hereby enacted to read as follows:

#### **16.04.57 Residential Development**

- A. Single-family residential development is a priority use on the shoreline when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
- B. Residential development in the shoreline shall meet the criteria of no-net-loss of ecological functions in Section 16.04.22 of this program and the preferred sequence for mitigation of impacts as provided in Section 16.04.022.B of this program. The use shall be

located and designed to maintain required buffers and maintain or enhance shoreline ecological functions including shoreline geomorphic processes, water quality, fish and wildlife habitat, and the aquatic food chain in general.

- C. New residential development shall cluster dwelling units to provide as little alteration to the natural environment as feasible and shall utilize low impact development (LID) techniques to reduce physical and visual impacts on shorelines.
- D. Multi-family residential use is not a priority for location on the shoreline under the Shoreline Management Act and is subject to the preference for water-dependent and water-oriented use. It therefore must meet requirements for providing public benefit through ecological restoration and public access. Multi-family development may not be approved if it displaces existing water-dependent uses. Multi-family development uses may be permitted only where it provides significant public benefit with respect to the objectives of the SMA by:
  - 1) Restoration of ecological functions both in aquatic and upland environments that shall provide native vegetation buffers according to the standards provided for Critical Areas or in accordance with the Restoration Element of this document; and
  - 2) Provision of public access is required in accordance with PMC 16.04.024.
- E. Over-water residences are prohibited.
- F. New residential development shall assure that the development will not require shoreline stabilization. Prior to approval, geotechnical analysis of the site and shoreline characteristics shall demonstrate that shoreline stabilization is unlikely to be necessary, setbacks from steep slopes, bluffs, landslide hazard areas, seismic hazard areas, and riparian erosion areas shall be sufficient to protect structures during the life of the lots, and impacts to adjacent, downslope, or down-current properties is not likely to occur during the life of lots created.
- G. New residential development shall meet all Critical Area provisions of this program. Filling of, or into, water bodies or their associated wetlands for the purpose of subdivision or multi-family construction shall be avoided. New subdivisions, short plats, and large lots shall preserve the required buffer in a protective tract, public or private land trust dedication, or similarly preserved through an appropriate permanent protective mechanism. In cases where Critical Areas are placed in separate tracts, each lot owner within the subdivision, short plat, or other land division shall have an undivided interest in the tract(s) or protective mechanism created.

- H. Residential developments, including subdivisions, and planned unit developments of five (5) or more lots/units shall provide “improved public access” for all residents of the development and the general public, in compliance with public access standards contained in Section 16.04.025.
- I. All new divisions of land shall record a prohibition on new private individual docks on the face of the plat. An area reserved for shared moorage may be designated if it meets all requirements of this program.

**Section 42.** Prosser Municipal Code Section 16.04.58 is hereby enacted to read as follows:

**16.04.58 Transportation Facilities**

A. Roads and Bridges:

- 1) Development of new roads or substantially expanded existing roads shall demonstrate the need for a shoreline location and that no feasible upland alternative outside the shoreline is available.
- 2) Roads shall cross shoreline areas by the shortest, most direct route feasible to minimize impacts, unless such route would cause significant adverse impacts based on specific local features.
- 3) The project configuration, design, and related features will minimize alteration of Critical Area buffers, will fit the existing topography as much as feasible, and will minimize alterations to the natural or existing topography.
- 4) New transportation facilities shall be located and designed to avoid the need for shoreline stabilization where feasible. Where demonstrated to be necessary to protect an existing facility that is in imminent danger of loss or substantial damage, new or expanded structural shore stabilization shall provide mitigation of impacts resulting in no net loss of shoreline ecological functions. In cases where substantial shore stabilization is required, relocation of facilities further from the shoreline may be required.
- 5) New or expanded roads will provide public access in accordance with Section 16.04.025 and where they afford scenic vistas, pedestrian viewpoints will be provided.
- 6) Wetlands shall be avoided whenever feasible. If avoidance is not feasible, bridges shall be utilized when crossing wetlands to avoid obstructing movement of surface and

groundwater unless it can be demonstrated that fill and compensatory mitigation will produce equal or greater ecological functions.

- 7) Road crossings of streams shall utilize bridges rather than culverts to the maximum extent feasible.
- 8) Private access roads or driveways providing ingress and egress for individual single-family residences or lots shall be limited to the minimum allowed by the Fire Code.
- 9) Bridges shall be designed and built of sufficient lateral and vertical clearance to allow the unimpeded passage of flood flows and debris. In wide streamways, bridges shall employ the maximum length of clear spans feasible with pier supports that produce the minimum deflection feasible. Bridge approaches in floodways of any stream shall be constructed on open piling or other measures to allow free water movement.
- 10) Landscape planting may be provided along all shoreline roads, parking, and turnout facilities when appropriate, and where provision of irrigation is not necessary to support landscaping to:
  - a. Provide buffers between pedestrian and auto users;
  - b. Enhance the shoreline driving experience; and
  - c. Enhance and complement potential views of shoreline areas.
- 11) The City shall not vacate any public right-of-way in a shoreline location until adopting a Comprehensive Public Access plan for the area showing that the subject right-of-way cannot be used as a contributing element in that plan. The City shall vacate a public right-of-way abutting a body of water only in compliance with RCW 35.79.035, which allows vacations of streets abutting bodies of water only when:
  - a. The vacation will enable acquisition of the property for public purposes;
  - b. The street or alley is not suitable for certain purposes (e.g., port, park, education); or
  - c. The vacation will enable implementation of a public access plan.
- 12) In order to improve public access to the shoreline the City may acquire and/or retain abandoned or unused road or railroad rights-of-way for public access to and/or along the water.

B. Non-Motorized Facilities:

- 1) Non-motorized facilities shall comply with provision for public access facilities in Section 16.04.025.
- 2) Trails shall be developed consistent with adopted city and regional system plans.
- 3) Non-motorized facilities shall avoid sensitive features of the shoreline to the extent feasible, including wetlands and fish and wildlife habitat. Facilities shall be placed outside of, or in the outer portions of buffers. Elevated walkways shall be utilized where feasible to cross wetlands and streams.

C. Railroads:

- 1) Railroad improvements requiring right-of-way expansion within the shoreline shall demonstrate that there is no feasible alternative outside of shoreline jurisdiction.
- 2) Expansion of existing railroad facilities within existing rights-of-way (additional track or other features) must demonstrate the need for a shoreline location and that no feasible upland alternative outside shoreline jurisdiction is feasible. New tracks shall be placed upland of existing tracks if feasible and may require relocation of existing tracks.
- 3) The project shall be designed to minimize alteration of Critical Area buffers, to fit the existing topography as much as feasible, and minimize alterations to the natural or existing topography.
- 4) Wetlands shall be avoided whenever feasible. Bridges shall be utilized when crossing wetlands to avoid obstructing movement of surface and groundwater unless it can be demonstrated that fill and compensatory mitigation will produce equal or greater ecological functions.
- 5) Criteria for road crossings of streams and shoreline stabilization shall apply to railroads.

D. Parking:

- 1) Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. Parking facilities shall be located outside shoreline jurisdiction where possible. Parking in shoreline jurisdiction shall directly serve a permitted shoreline use and shall be located outside of Critical Area buffers and as far from the water/land interface as possible.

- 2) Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served. The only exceptions to this would be when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline and in all cases is prohibited over the water.
- 3) Parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping shall comply with PMC Title 18, Zoning, Section 16.04.24 Shoreline Vegetation Conservation and, in addition, landscaping between parking areas and public access shall provide effective screening within three (3) years of project completion.

**Section 43.** Prosser Municipal Code Section 16.04.59 is hereby enacted to read as follows:

**16.04.59            Utilities**

- A. New or substantially expanded utilities serving uses within the City may be located within shoreline jurisdiction only if:
  1. The facility is needed within the shoreline jurisdiction to support permitted shoreline activities; and
  2. No feasible upland alternative exists based on analysis of system options that assess the potential for alternative routes outside shoreline jurisdiction or is set back further from the land/water interface.
- B. Regional facilities that serve uses outside the City and all electric transmission facilities with a capacity greater than 50 kW shall demonstrate, based on an analysis of alternative routes and technology, that:
  1. No upland alternative is feasible,
  2. Utilization of existing corridors is not feasible, including expansion or replacement of existing facilities, if new corridors are proposed,
  3. A location within designated industrial environments or existing transportation corridors is not feasible,
  4. The proposal has the least feasible adverse impact on the natural environment, and

5. The location and design of the facility has the least feasible change in the existing character of the shoreline views enjoyed by residences or from public access facilities, and will not obstruct scenic views.
- C. Linear facilities consisting of pipelines, sewers, cables and other facilities roughly parallel to the shoreline shall be discouraged except where no other feasible alternative exists. At the time of replacement of such facilities that are close to their lifespan, or when such facilities are expanded, relocation outside of the shoreline may be required as if they were new facilities. When permitted, design shall assure that maintenance of the facilities does not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.
  - D. Utilities shall be located and designed to avoid significant natural, historic, archaeological, or cultural sites to the maximum extent feasible, and mitigate unavoidable impacts.
  - E. Utilities, where permitted, shall meet the following design criteria:
    - 1) Facilities should occupy as little of the shoreline as feasible. Utility installation parallel to the shoreline should be avoided to the maximum extent feasible. Utilities shall cross the shoreline area by the shortest, most direct route, unless such route would cause substantial significant environmental damage.
    - 2) Utilities shall be located and designed to minimize alterations to the natural environment and fit the existing topography as much as possible.
    - 3) Facilities shall be located and designed to minimize introducing elements that change the existing character of the shoreline views enjoyed by residences or from public access facilities, or obstruct scenic views.
    - 4) Utility crossings of water bodies shall be attached to bridges or located in other existing facilities, if feasible. If new installations are required to cross water bodies or wetlands they should avoid disturbing banks and streambeds and shall be designed to avoid the need for shoreline stabilization. Crossings shall be tunneled or bored where feasible. Installations shall be deep enough to avoid failures or need for protection due to exposure due to stream bed mobilization, aggregation, or lateral migration. Underwater utilities shall be placed in a sleeve if feasible to avoid the need for excavation in the event of the need for maintenance or replacement.

- F. New electrical distribution lines within the shoreline shall be placed underground. Distribution lines that cross water or other critical areas may be allowed to be placed above ground if:
- 1) Underground installation would substantially disrupt ecological functions and processes of water bodies and wetlands, and horizontal drilling or similar technology that does not disturb the surface is not feasible;
  - 2) Visual impacts are minimized to the extent feasible; and
  - 3) If overhead facilities require that native trees and other vegetation in a Critical Areas buffer cannot be maintained in a natural condition, compensatory mitigation is provided on- or off-site.
- G. Stormwater, wastewater, or water supply pump stations, and stormwater discharge facilities such as dispersion trenches, level spreaders, and outfalls may be located in the shoreline jurisdiction if:
- 1) Due to topographic or other physical constraints there are no feasible locations for these facilities outside the shoreline;
  - 2) The facility minimizes and compensates for impacts to Critical Area buffers; and
  - 3) Any discharge facility is designed and maintained to prevent erosion or other adverse impacts.
- H. Construction shall be designed to protect the shoreline against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment, both during and after construction.
- I. Roadways or other facilities to access utility installations within Critical Area buffers shall be no wider than needed to construct, maintain, or repair the utility.
- J. Facilities involving buildings, such as pump stations, electrical substation, or other facilities, shall be permitted as a conditional use and shall be in scale with surrounding development, and architecturally compatible and landscaped to assure compatibility with natural features, public access facilities, and adjacent uses.
- K. Public Access: Utility development shall provide for compatible, multiple use of sites and rights-of-way through coordination with local government agencies. Such uses include

shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

**Section 44.** Prosser Municipal Code Section 16.04.60 is hereby enacted to read as follows:

**16.04.60 Shoreline Administration**

**Section 45.** Prosser Municipal Code Section 16.04.61 is hereby enacted to read as follows:

**16.04.61 Procedure**

- A. All shoreline permits shall be processed in accordance with PMC Title 19 Administration of Development Regulations.

**Section 46.** Prosser Municipal Code Section 16.04.62 is hereby enacted to read as follows:

**16.04.62 Coordination with Other Agencies**

- A. The City will coordinate on issues relating to ecological conditions, functions, and processes and on wetland and ordinary high water delineations with the Department of Ecology, the Department of Natural Resources, and the Department of Fish and Wildlife as well as other agencies with permit authority over a project to the extent that agencies are timely in their response and coordination does not unduly extend review times.
- B. Interpretation of the provisions of this program shall be in accordance with PMC 19.01.090 provided that the Administrator shall consult with the Department of Ecology when there is a lack of clear guidance in this Master Program or WAC 173-26, the Shoreline Guidelines to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines. The provisions of RCW 34.05.328, and the policy goals set forth in WAC 173-26-176 and 173-26-181 should be used to assist in interpretation of any ambiguous provisions and reconciliation of any conflicting provisions.

- C. All references to statutes or to provisions of the Washington Administrative Code (WAC) shall be as those provisions are as now existing or as hereafter may be amended

**Section 47.** Prosser Municipal Code Section 16.04.63 is hereby enacted to read as follows:

**16.04.63 Development Compliance**

- A. All uses and developments within the jurisdiction of the Shoreline Management Act shall be planned and carried out in a manner that is consistent with the Shoreline Master Program and the policies of the SMA as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required. The City shall assure compliance with the provisions of the Shoreline Master Program for all permits and approvals processed by the City.
- B. Regulation of private property to implement any Program goals, such as public access and protection of ecological functions, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes, such as RCW 34.05.328 and 43.21C.060. An applicant requesting specific accommodation of constitutional or other legal limits in the application of standards and criteria of this Program must do so in application materials. The decision maker shall address such requests in specific findings.
- C. The policies and provisions of this program and RCW 90.58 including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.
- D. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Permit Act [HPA] permits, U.S. Army Corps of Engineers Section 404 permits, Washington State Department of Ecology Water Quality Certification [Section 401]

National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

**Section 48.** Prosser Municipal Code Section 16.04.64 is hereby enacted to read as follows:

**16.04.64 Shoreline Overlay**

- A. Shoreline regulations shall apply as an overlay and in addition to development regulations, including, but not limited to, zoning, environmental regulations, development standards, subdivision regulations, and other regulations established by the City.
- B. Allowed uses shall be governed by both the zoning regulations in PMC Title 18 and this program. The most restrictive provisions of applicable zoning district and Shoreline Environmental designation shall apply.
- C. Allowed uses shall be limited by the general polices and specific regulations regarding use preferences for water-dependent and water-oriented uses. Allowed uses may be specified and limited in specific shoreline permits. In the case of non-conforming development, the use provisions of this code shall be applied to any change of use, including occupancy permits.
- D. In the event of any conflict between shoreline policies and regulations and any other regulations of the City, shoreline policies and regulations shall prevail unless other regulations provide greater protection of the shoreline natural environment and aquatic habitat.
- E. All regulations applied within the shoreline shall be liberally construed to give full effect to the objectives and purposes for which they have been enacted. Shoreline Master Program policies, found in the City's Comprehensive Plan, establish intent for the shoreline regulations in addition to RCW 90.58 and Chapter 173 of the Washington Administrative Code (WAC), WAC 173-26 and WAC 173-27 all as now existing or as hereafter may be amended.

**Section 49.** Prosser Municipal Code Section 16.04.65 is hereby enacted to read as follows:

#### **16.04.65 Non-Conformities**

- A. The provisions of PMC Subsections 18.66.010 through 18.66.030 referencing nonconforming lots, structures, and uses are adopted by reference as part of this program, subject to the definition in PMC 16.04.2.L and additional provisions below.
- B. Any expansion of a nonconforming use, building, or structure within Shoreline Management Act jurisdiction shall meet the following additional criteria:
  - 1) The expansion or enlargement will not increase its degree of nonconformity in relation to the provisions of the Shoreline Master Program; and
  - 2) The expansion or enlargement will not result in enlargement of the building footprint or impervious area in a Critical Area buffer or extends further toward the water unless necessary to meet minimum standards of life-safety codes; and
  - 3) The expansion or enlargement will not result in a net loss of ecological functions;

**Section 50.** Prosser Municipal Code Section 16.04.66 is hereby enacted to read as follows:

#### **16.04.66 Exemption from Substantial Development Permit**

- A. A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to RCW 90.58.140(1).
- B. The following shall not be considered substantial developments for the purpose of this Master Program and are exempt from obtaining a Shoreline Substantial Development Permit (SSDP), provided that any additional exemptions established by legislative amendment of the statute shall constitute exemptions without amendment to this code. An exemption from an SSDP is not an exemption from compliance with the SMA or the Shoreline Master Program, or from any other regulatory requirements. A use or development exempt from a Shoreline Substantial Development Permit may require a Conditional Use Permit or a variance:
  - 1) Governor's Certification: Any project with a certification from the Governor pursuant to Chapter 80.50 RCW Energy Facilities – Site Locations.
  - 2) Projects Valued at \$5,000 or less: Any development of which the total cost or fair market value does not exceed five thousand dollars (\$5,000.00), if such development does not

materially interfere with the normal public use of the water or shorelines of the state. The \$5,000 level is subject to adjustment for inflation by the office of financial management every five years. As of July 26, 2012, the adjusted cost is six thousand four hundred sixteen dollars (\$6,416).

- 3) Maintenance and Repair: Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements.
  - a. “Normal maintenance” includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.
  - b. “Normal repair” means to restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource or environment.
  - c. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
  
- 4) Emergency Construction: Emergency construction necessary to protect property from damage by the elements.
  - a. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow for full compliance with the Shoreline Master Program.
  - b. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed 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, 173 -27 WAC or this Shoreline Program shall be obtained.
  - c. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the Shoreline Master Program.
  - d. In general, flooding or other seasonal events that can be anticipated and may occur, but that are not imminent, are not an emergency.

- 5) Agricultural Construction or Practices: 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.
- 6) Construction of Single-Family Residence and Accessory Buildings: 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 family, which residence does not exceed a height of 35 feet above average grade level as defined in WAC 173-27-030, and which meets all requirements of the State agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this Section.
- a. “Single family” residence means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance. An “appurtenance” is necessarily connected to the use and enjoyment of a single family residence and is located landward of the OHWM and the perimeter of a wetland.
- b. Construction authorized under this exemption shall be located landward of the OHWM.
- 7) Construction of Non-Commercial Docks: 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 multi-family residences. This exception applies if:
- a. The fair market value of the dock does not exceed ten thousand dollars (\$10,000.00); however, if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five (5) years of completion of the prior construction, the subsequent construction shall require a substantial development permit; and

- b. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities, or other appurtenances.
  - c. The dock meets all requirements of this code.
- 8) Construction Authorized by the Coast Guard: Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.
  - 9) Operation, Maintenance, or Construction Related to Irrigation: Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands.
  - 10) Marking of Property Lines on State-Owned Lands: The marking of property lines or corners on State-owned lands when such marking does not interfere with the normal public use of the surface of the water.
  - 11) Operation and Maintenance of Agricultural Drainage or Dikes: 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.
  - 12) Activities Necessary for Permit Application: Site exploration and investigation activities that are prerequisites to preparation of an application for development authorization under the Shoreline Master Program, if:
    - a. The activity does not interfere with the normal public use of the surface waters;
    - b. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
    - c. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
    - d. A private entity seeking development authorization under the Shoreline Master Program first posts a performance bond or provides other evidence of financial responsibility to the Administrator to ensure that the site is restored to pre-existing conditions; and
    - e. The activity is not subject to the permit requirements of RCW 90.58.550.

13) Removal or Control of noxious Weeds: 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 of Ecology jointly with other State agencies under chapter 43.21C RCW.

14) Watershed Restoration Projects: Watershed restoration projects as defined below:

- a. “Watershed restoration project” means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
  - (i) A project that involves less than ten (10) miles of stream reach, in which less than twenty five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed, or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings.
  - (ii) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water.
  - (iii) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the State, provided that any structure other than a bridge or culvert or in-stream habitat enhancement structure associated with the project is less than two hundred (200) square feet in floor area and is located above the OHWM of the stream.
- b. “Watershed restoration plan” means a plan developed or sponsored by a state department, a federally recognized Indian tribe, a City, or a conservation district, for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act. The watershed restoration plan generally contains a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed.

15) Projects to Improve Fish and Wildlife Passage or Habitat: A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

- a. The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose.
- b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 77.55 RCW.
- c. The Administrator has determined that the project is consistent with this Master Program.

16) Hazardous Substance Remediation: Hazardous substance remedial actions pursuant to WAC 173-27-040(3).

17) Projects on Lands Not Subject to Shoreline Jurisdiction Prior to Restoration: Actions on land that otherwise would not be under the jurisdiction of the Shoreline Management Act except for a change in the location of OHWM or other criteria due to a shoreline restoration project creating a landward shift in the ordinary high water mark that brings the land under the jurisdiction of the SMA approved in accordance with PMC 16.04.072 Restoration Project Relocation of OHWM.

18) All of the above exemptions are subject to the following regulations:

- a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
- b. The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development action.
- c. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.

**Section 51.** Prosser Municipal Code Section 16.04.67 is hereby enacted to read as follows:

**16.04.67 Exemption Procedures**

- A. A project requiring an additional permit and subject to an exemption to a shoreline substantial development permit shall be reviewed under the criteria of the underlying permit with an additional finding recorded by the Administrator addressing the grounds under which the permit is exempt.

- B. Any person claiming exemption from the permit requirements of this Master Program as a result of the exemptions specified in this Section may make application for an exemption certificate to the Administrator in the manner prescribed by the City.
- C. Any project for which Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers shall make application for an exemption certificate to the Administrator in the manner prescribed by the City. The City shall transmit an exemption certificate addressed to the applicant and the department, whenever a development is subject to one or more of the following federal permit requirements:
- 1) A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899; (The provisions of section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.); or
  - 2) A Section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)
  - 3) The letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the local government's analysis of the consistency of the project with the master program and the act.
- D. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of any project with the Shoreline Management Act and the Shoreline Master Program.

**Section 52.** Prosser Municipal Code Section 16.04.68 is hereby enacted to read as follows:

**16.04.68 Land Division:**

- A. Prior to approval of any land division, such as short subdivisions, preliminary long plats, and boundary line adjustments within shoreline jurisdiction, the City shall document compliance with bulk and dimensional standards as well as with policies and regulations of the Shoreline Master Program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities, and future use associated with such lands are consistent with the Shoreline Master Program.

**Section 53.** Prosser Municipal Code Section 16.04.69 is hereby enacted to read as follows:

**16.04.69 Approval Criteria**

- A. In order to approve any development within SMP jurisdiction, the City must find that a proposal is consistent with the following criteria as well as the criteria of PMC Chapter 19.04:
  - 1) All use regulations of the Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed shall be met, particularly the preference for water-oriented uses. If a non-water-oriented use is approved, the decision maker shall enter specific findings documenting why water-oriented uses are not feasible.
  - 2) All bulk and dimensional regulations of the Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance.
  - 3) All policies of the Shoreline Master Program appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and compliance demonstrated, subject to liberal construction to give full effect to the objectives and purposes for which they have been enacted.

**Section 54.** Prosser Municipal Code Section 16.04.70 is hereby enacted to read as follows:

**16.04.70 Written Findings Required**

- A. All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the decision maker addressing compliance with policies and regulations of the Shoreline Master Program. The decision

maker may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the SMA and this Program.

**Section 55.** Prosser Municipal Code Section 16.04.71 is hereby enacted to read as follows:

**16.04.71 Construction Permit Compliance**

- A. For all development within shoreline jurisdiction, the Building Official shall not issue a construction permit for such development until compliance with the Shoreline Master Program has been documented. If a shoreline substantial development permit is required, no permit shall be issued until all comment and appeal periods have expired. Any permit issued by the Building Official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

**Section 56.** Prosser Municipal Code Section 16.04.72 is hereby enacted to read as follows:

**16.04.72 Restoration Project Relocation of OHWM**

The City may grant relief from Shoreline Master Program development standards and use regulations in accordance with RCW 90.58.580 Shoreline restoration projects — Relief from shoreline master program development standards and use regulations.

**Section 57.** Prosser Municipal Code Section 16.04.73 is hereby enacted to read as follows:

**16.04.73 Shoreline Permit Application Procedures**

- A. In addition to the public notice requirements of PMC Chapter 19.03, the following notice shall be provided for each application for a shoreline management substantial development, conditional use, or variance permit.
  - 1) Within fourteen (14) days after the City has made a determination of completeness on the project permit application the city shall issue public notice including:
    - a. The date of application, the date of the notice of completion for the application, and the date of the notice of application;

- b. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, RCW 36.70B.090, and WAC 173-27-180 as now existing or as hereafter may be amended;
  - c. The identification of other permits not included in the application to the extent known by the local government;
  - d. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;
  - e. A statement of the public comment period, which shall be not less than thirty (30) days following the date of notice of application,
  - f. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Public comments shall be accepted at any time prior to the closing of the record of an open record hearing, if any, or, if no open record hearing is provided, prior to the decision on the project permit;
  - g. The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;
  - h. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency; and
  - i. Any other information determined appropriate by the Administrator.
- 2) Public notice shall include:
- a. Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet (300) of the boundary of the property upon which the development is proposed.
  - b. Posting of Project Site.
  - c. Publication shall be in accordance with PMC 19.03 notwithstanding the classification of the project pursuant to Chapter 19.01 If an open record public hearing is required, a notice shall be provided at least fifteen (15) days prior to the hearing.

**Section 58.** Prosser Municipal Code Section 16.04.74 is hereby enacted to read as follows:

**16.04.74 Surety Devices**

- A. The Administrator may require the applicant to post a surety device in favor of the City to assure full compliance with any terms and conditions imposed on any shoreline permit. Said surety device shall be in an amount to reasonably assure the City that any deferred improvement will be carried out within the time stipulated and in accordance with approved plans.

**Section 59.** Prosser Municipal Code Section 16.04.75 is hereby enacted to read as follows:

**16.04.75 Conditional Use**

- A. The objective of a conditional use provision is to provide more control and flexibility for implementing the regulations of the Master Program. With provisions to control undesirable effects, the scope of allowed uses can be expanded. In authorizing a conditional use, special conditions may be attached to the permit by local government or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.
- 1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
- a. That the proposed use is consistent with the policies, regulations and standards of RCW 90.58.020 and the master program;
  - b. That the proposed use will not interfere with the normal public use of public shorelines;
  - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
  - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - e. That the public interest suffers no substantial detrimental effect.

- 2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- 3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in the master program.
- 4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (a.) or (b.) of this Section.

**Section 60.** Prosser Municipal Code Section 16.04.76 is hereby enacted to read as follows:

**16.04.76 Variances:**

- A. A development may be granted which is at variance with the criteria established in the SMP where, owing to special conditions pertaining to the specific piece of property, the literal interpretation and strict application of the criteria established in the SMP would cause undue and unnecessary hardship or practical difficulties. A variance may be required for a use that does not require a substantial development permit but which may not be approved because it does not comply with the provisions of the SMP.
- B. Decision Criteria: The fact that the applicant might make a greater profit by using his property in a manner contrary to the intent of the Master Program is not, by itself, sufficient reason for a variance. The Board of Adjustment must find each of the following:
  - 1) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
  - 2) That the hardship described in (1) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features

and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

- 3) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
- 4) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
- 5) That the variance requested is the minimum necessary to afford relief; and
- 6) That the public interest will suffer no substantial detrimental effect.

**Section 61.** Prosser Municipal Code Section 16.04.77 is hereby enacted to read as follows:

**16.04.77 Time Requirements for Shoreline Permits**

- A. The time requirements of this Section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized under the Shoreline Master Program.
- B. No construction pursuant to such permit shall begin or be authorized and no building, grading, or other construction permits or use permits shall be issued by the City until twenty-one (21) days from the date a substantial development permit was filed with the Department of Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the twenty-one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130 as now existing or as hereafter may be amended.
- C. No permits and construction pursuant to a conditional use permit or variance shall begin or be authorized until twenty-one (21) days from the date of notification of approval by the Department of Ecology, or until all review proceedings are completed as were initiated within the twenty-one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130 as now existing or as hereafter may be amended.

- D. Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143, construction activities, or a use or activity for which a permit has been granted pursuant to this Master Program, must be commenced within two (2) years of the effective date of a shoreline permit, or the shoreline permit shall terminate and a new permit shall be necessary. However, the Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors if a request for extension has been filed with the City before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. Construction activities or commencement of construction means that construction applications must be submitted, permits must be issued, and foundation inspections must be approved and completed.
- E. A permit authorizing construction shall extend for a term of no more than five (5) years after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143 and Subsection F of this Section. If an applicant files a request for an extension prior to expiration of the shoreline permit, the Administrator shall review the permit and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise said permit shall terminate. Notice of the proposed permit extension shall be given to parties of record and the Department of Ecology. To maintain the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted Building Codes.
- F. If it is determined that standard time requirements of Subsections D and E should not be applied, the Decision Maker, upon a finding of good cause, may establish shorter time limits, provided that as a part of action on a conditional use or variance permit the approval of the Department of Ecology shall be required. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.
- G. For purposes of determining the life of a shoreline permit, the effective date of a substantial development permit, shoreline conditional use permit, or shoreline variance permit shall be the date of filing as provided in RCW 90.58.140(6) as now existing or as hereafter may be amended. The permit time periods do not include the time during which a use or activity was

not actually pursued due to the pendency of appeals or legal actions, or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed.

- H. It is the responsibility of the applicant to inform the Administrator of the pendency of other permit applications filed with agencies other than the City, and of any related administrative or legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the City prior to the expiration date established by the shoreline permit or the provisions of this Section, the expiration of a permit shall be based on the effective date of the shoreline permit.
- I. If the granting of a shoreline permit by the City is appealed to the Shoreline Hearings Board, and the Shoreline Hearings Board has approved the granting of the permit, and an appeal for judicial review of the Shoreline Hearings Board decision is filed, construction authorization may occur subject to the conditions, time periods, and other provisions of RCW 90.58.140(5)(b).

**Section 62.** Prosser Municipal Code Section 16.04.78 is hereby enacted to read as follows:

**16.04.78 Rulings to State**

- A. Any ruling on an application for a substantial development permit under authority of this Master Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with the Department of Ecology and the Attorney General by the Administrator. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130 as now existing or as hereafter may be amended.

**Section 63.** Prosser Municipal Code Section 16.04.79 is hereby enacted to read as follows:

### **16.04.79 Appeals**

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one (21) days of the date of receipt of the decision as provided for in RCW 90.58.140(6) as now existing or as hereafter may be amended. Appeals as provided by PMC 19.01.040 Project permit application framework, may be provided only if initiated by the applicant. If such an appeal is initiated by the applicant, the final decision shall be the city's appeal decision and shall initiate the 21 day period for petition to the shoreline hearings board.

**Section 64.** Prosser Municipal Code Section 16.04.80 is hereby enacted to read as follows:

### **16.04.80 Enforcement**

All provisions of this Master Program shall be enforced by the Administrator in accordance with Chapter 19.07 PMC.

**Section 65.** Prosser Municipal Code Section 16.04.81 is hereby enacted to read as follows:

### **16.04.81 Rescission of Permits**

- A. Any shoreline permit issued under the terms of this Master Program may be rescinded or suspended upon a finding that a permittee has not complied with conditions of the permit.
- B. Such rescission and/or modification of an issued permit shall be initiated by serving written notice of noncompliance on the permittee, which shall be sent by registered or certified mail, return receipt requested, to the address listed on the application or to such other address as the applicant or permittee may have advised the City; or such notice may be served on the applicant or permittee in person or his agent in the same manner as service of summons as provided by law.
- C. Before any such permit can be rescinded, a public hearing shall be held by the Board of Adjustment. Notice of the public hearing shall be made in accordance with Section 16.04.073

of this program. The decision of the Board of Adjustment shall be the final decision of the City on all rescinded applications. A written decision shall be transmitted to the Department of Ecology, the Attorney General's office, the applicant, and such other departments or boards of the City as are affected thereby and the legislative body of the City.

- D. The Department of Ecology may petition the Shoreline Hearings Board for a rescission of the permit if Ecology is of the opinion that the noncompliance continues to exist thirty (30) days after the date of the notice, and the local government has taken no action to rescind the permit, as provided by RCW 90.58.140(8).

**Section 66.** Prosser Municipal Code Section 16.04.82 is hereby enacted to read as follows:

**16.04.82 Violations and Penalties**

- A. In addition to the provisions of Chapter 19.07 PMC, every person violating any of the provisions of this Master Program or the Shoreline Management Act of 1971 shall be punishable under conviction by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense.
- B. The City Attorney may bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the Shorelines of the State within the City's jurisdiction which are in conflict with the provisions and programs of this Master Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971 as now existing or as hereafter may be amended.
- C. Any person subject to the regulatory program of this Master Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney shall bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the

cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

**Section 67.** Prosser Municipal Code Section 16.04.83 is hereby enacted to read as follows:

**16.04.83 Shoreline Moratorium**

- A. The City Council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act in accordance with RCW 90.58.590.

**Section 68.** Prosser Municipal Code Section 16.04.84 is hereby enacted to read as follows:

**16.04.84 Administration Rules Promulgation**

- A. The Administrator is authorized to adopt such rules as are necessary and appropriate to implement this chapter. The director may prepare and require the use of such forms as are necessary to its administration.

**Section 69.** Prosser Municipal Code Section 16.04.85 is hereby enacted to read as follows:

**16.04.85 Amendments Authorized**

- A. The provisions of the Shoreline Master Program Use Regulations or the Shoreline Environment Map may be amended as provided for in RCW 90.58.120 and 90.58.200 and Chapter 173-26 WAC as now existing or as hereafter may be amended.

**Section 70.** Prosser Municipal Code Section 16.04.86 is hereby enacted to read as follows:

### **16.04.86 Amendments Adopted by City Council**

- A. Adoption of an amendment to the official controls shall be adopted by the City Council by ordinance after a public hearing and report by the planning commission.

**Section 71.** Prosser Municipal Code Section 16.04.87 is hereby enacted to read as follows:

#### **16.04.87 Initiation of Amendments**

- A. The Shoreline Use Regulations or Map amendments thereto may be initiated by:
- 1) The adoption of a motion by the City Council requesting that the planning commission set a matter for hearing and recommendation.
  - 2) The adoption of a motion by the planning commission.
  - 3) Application of one or more owners of property affected by the proposal.
  - 4) A department or agency of the City or governmental entity.

**Section 72.** Prosser Municipal Code Section 16.04.88 is hereby enacted to read as follows:

#### **16.04.88 Burden of proof**

- A. Proponents for Shoreline Environment Map redesignations (i.e., amendments to the Shoreline Environment Designation Map) shall bear the burden of proof for demonstrating consistency with the shoreline environment criteria of the master program, Chapter 173-26 WAC as now existing or as hereafter may be amended, and the goals and policies of the City of Prosser Comprehensive Plan.

**Section 73.** Prosser Municipal Code Section 16.04.89 is hereby enacted to read as follows:

#### **16.04.89 Transmittal to the Department of Ecology**

Subsequent to final action by the Council adopting or amending the Shoreline Master Program or official control, said Master Program, official control, or amendment thereto shall be submitted to the Department of Ecology for approval. No such Master Program, official control, or

amendment thereto shall become effective until approval by the Department of Ecology is obtained pursuant to RCW 90.58.90 as now existing or as hereafter may be amended.

**Section 74.** Prosser Municipal Code Section 16.04.900 is hereby enacted to read as follows:

**16.04.900 Severability**

If any section, subsection, sentence, clause, paragraph, phrase, or word of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, paragraph, phrase or word of this chapter

**Section 75.** The City Council adopts the Shoreline Environment Designations Maps, attached hereto as Exhibit A, and incorporated by reference.

**Section 76.** The City Council hereby adopts the findings made by the Planning Commission on May 15, 2014, as the findings of the City Council in support of this ordinance. In addition, the City Council finds that it agrees with the recommendations from the Planning Commission and finds that there is a factual and legal basis to revise the Shoreline Master Program as recommended by the Planning Commission.

**Section 77. SEVERABILITY.** The provisions of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of this ordinance shall not as a result of said section, sentence, clause, or phrase be held unconstitutional or invalid.

**Section 78.** This ordinance shall be in full force and effect five days after publication of an approved summary of this ordinance consisting of its title or after the date the City's Shoreline Management Program is approved by the Washington State Department of Ecology pursuant to RCW 36.70.480(2) and RCW 90.58.090(1), whichever is later.

**PASSED** by the City Council and **APPROVED** by the Mayor, this 24th day of June, 2014.

\_\_\_\_\_  
**MAYOR PAUL WARDEN**

ATTEST:

\_\_\_\_\_  
**CITY CLERK, RACHEL SHAW**

Approved as to form:



CITY ATTORNEY, HOWARD SAXTON

Date of Publication: \_\_\_\_\_

**SUMMARY OF ORDINANCE NO. 14-\_\_\_\_\_**

of the City of Prosser, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 2014, the City of Prosser, Washington, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE REPEALING THE EXISTING SHORELINE MASTER PROGRAM CONTAINED IN PROSSER MUNICIPAL CODE CHAPTER 16.04 AND ADOPTING A NEW SHORELINE MASTER PROGRAM. THE ORDINANCE ALSO ADOPTS SHORELINE DESIGNATION MAPS. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.

The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014

---

CITY CLERK, RACHEL SHAW

CITY OF PROSSER, WASHINGTON  
ORDINANCE NO. 14-\_\_\_\_\_

AN ORDINANCE AMENDING PROSSER MUNICIPAL CODE SECTIONS 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, AND 16.60.040 OF THE CITY'S CRITICAL AREAS ORDINANCE TO MAKE IT CONSISTENT WITH THE CITY'S SHORELINE MASTER PROGRAM. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PROSSER, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.10.120 and Prosser Municipal Code Section 16.10.120 are both hereby amended and reenacted to read as follows:

**16.10.120 Exception—Reasonable use.**

- A. Except within the jurisdiction of the Shoreline Management Act RCW 90.58, if the application of this title would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this Section.

**Section 2.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.10.130 and Prosser Municipal Code Section 16.10.130 are both hereby amended and reenacted to read as follows:

**16.10.130 General review process.**

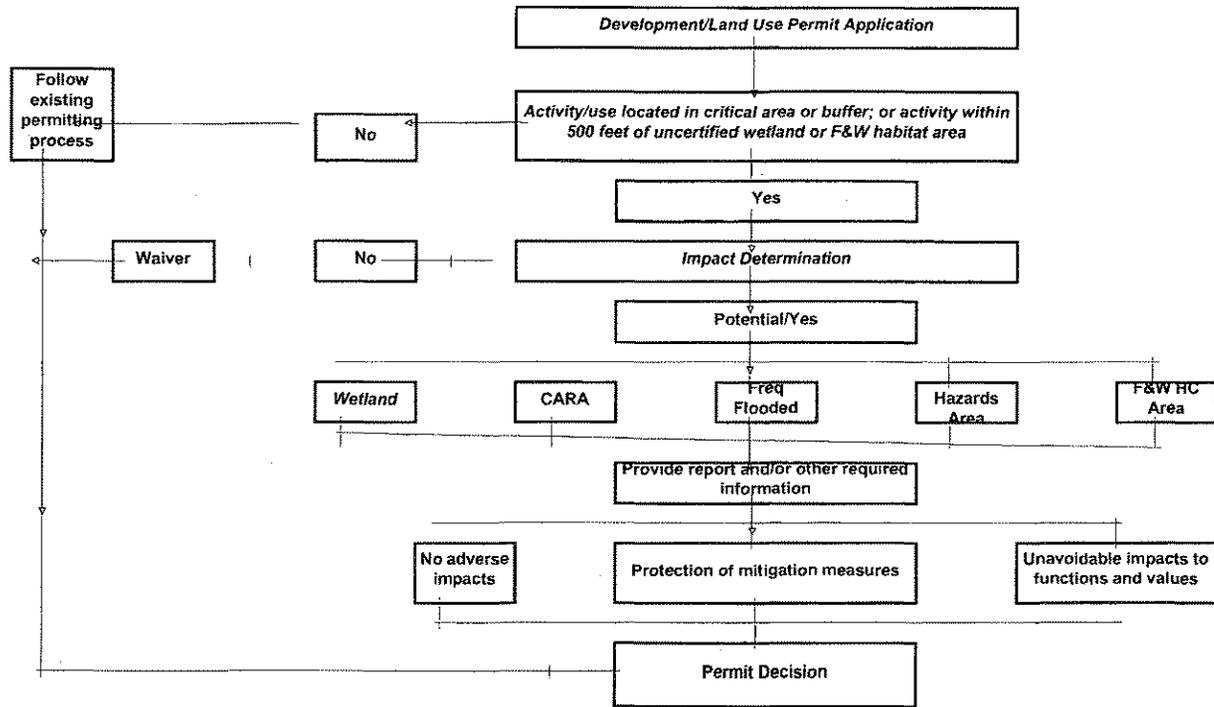
- A. The city shall follow the process discussed below and as outlined in Figure 1 at the end of this section.
1. Verify the information submitted by the applicant for the applicable permit;
  2. Evaluate the project area and vicinity for critical areas;
  3. For wetland, geologically hazardous and/or fish and wildlife habitat conservation areas the city shall require that boundaries be verified and mapped by a qualified professional, and such boundaries be submitted to the city as part of the application for the applicable permit if the project is:
    - a. Within three hundred feet of a wetland or fish and wildlife critical area for which the boundaries have not been certified and depicted by the city on the critical areas map (see Exhibit I of the ordinance codified in this chapter, or the most recent revision thereof); and

- b. Will not be receiving a no-impact waiver as provided in subsection B of this section.  
The scale of the boundary information shall be the same as the city maps;
  4. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
  5. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B. Critical Areas Present, But No Impact—Waiver. If the planning director determines that there are critical areas within or adjacent to the project area, but that the proposed activity is unlikely to degrade the functions or values of the critical area, the planning director may waive the requirement for a report or other applicable information. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
1. There will be no alteration of the critical area or buffer;
  2. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this title; and
  3. The proposal is consistent with other applicable regulations and standards.
  4. The Administrator may recognize that ecological functions of buffers are interrupted by permanent man-made features and may recognize such features as the boundary of the buffer. Such features may include public roads, railroads, publicly maintained levees and other existing permanent improvements that substantially interrupt or impair ecological functions performed by buffers in relation to the adjacent wetland or water body. In such cases, the Administrator may recognize that the buffer extends from the edge of the wetland or the ordinary high water mark of a stream to the edge or the area of vegetation management associated with the road, railroad, levee, or similar facility. In the case of private facilities, the Administrator may recognize that existing structures and impervious surfaces provide the effective limit to buffer functions on existing developed sites and recognize such facilities as the boundary of the buffer, provided that upon substantial redevelopment of a site or facility, the Administrator may require reconfiguration of a site or redesign of features to accommodate buffer dimensions as otherwise provided in this chapter. The Administrator may require appropriate studies by a Qualified Professional to determine whether buffer functions are interrupted or substantially impaired by existing facilities.
- C. Critical Areas Present and Potential Impact Likely. If the planning director determines that the proposed project is within, adjacent to, or is likely to impact a critical area, the planning director shall:
1. Notify the applicant that a critical area report or other applicable information must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed;
  2. Require a critical area report or other applicable information from the applicant that has been prepared by a qualified professional;
  3. Review and evaluate the critical area report and other applicable information to determine whether the development proposal conforms to the purpose and performance standards of

this title;

4. Assess potential impacts to the critical area and determine if they are necessary and unavoidable;
  5. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this title; and
  6. A summary of this analysis and the findings shall be included in any decision on the underlying permit(s). Critical area review findings may result in:
    - a. No adverse impacts to critical area(s);
    - b. List of applicable critical area(s) protection conditions for the underlying permit(s); or
    - c. Denial of permit based upon unavoidable impacts to critical area(s) functions and values.
- D. Within the Jurisdiction of the Shoreline Management Act RCW 90.58, regulations to protect critical areas are intended to be remedial and curative in nature, and to apply retroactively to July 27, 2003.

Figure 1. Critical Area Process/Other Permits



NOTE: Appeal process follows route of associated permit. Appeals of administrative decisions regarding provisions of the critical areas code use the administrative appeal process contained within the city of Prosser zoning code (Title 18) and plat and divisions code (Title 17).

**Section 3.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.20.010 and Prosser Municipal Code Section 16.20.010 are both hereby amended and reenacted to read as follows:

**16.20.010 Designation, rating and mapping wetlands.**

- A. Designating Wetlands. Wetlands are those areas, designated in accordance with the “Washington State Wetland Identification and Delineation Manual,” that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city of Prosser meeting the wetland designation criteria in the “Identification and Delineation Manual,” regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.
- B. Wetland Ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating for Eastern Washington (Ecology Publication No. 04-06-015), or as revised by Ecology. This document contains definitions and methods for determining ratings.

**Section 4.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.20.040 and Prosser Municipal Code Section 16.20.040 are both hereby amended and reenacted to read as follows:

**16.20.040 Performance standards—General requirements.**

- A. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and other critical areas.
- B. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this title.
- C. Wetland Buffers.
  - 1. Standard Buffer Widths. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

<b>WETLAND TYPE</b>	<b>BUFFER</b>
<b>Category I</b>	
Category I 30-36 habitat points	150 feet

Category I 26-29 habitat points	115 feet
Category I 21-25 habitat points	90 feet
Category I >21 habitat points	75 feet
<b>Category II</b>	
Category II 30-36 habitat points	150 feet
Category II 26-29 habitat points	115 feet
Category II 21-25 habitat points	90 feet
Category II >21 habitat points	75 feet
<b>Category III</b>	
Category III 26-29 habitat points	120 feet
Category III 21-25 habitat points	90 feet
Category III >21 habitat points	60 feet
<b>Category IV</b>	40 feet

The following measures shall be incorporated into adjacent development:

<b>Type of Potential Disturbance</b>	<b>Required Measures to Minimize Impacts</b>
Lights	Direct lights away from wetland.
Noise	Locate activity that generates noise away from wetland. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use Low Intensity Development techniques (per Eastern Washington Low Impact Development Guidance Manual, Washington Department of Ecology publication #13-10-036, June 2013 and as may be hereafter amended, supplemented, or replaced.)).
Change in patterns or water flow	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and human disturbance	Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.

	Place wetland and its buffer in a separate tract or protect with a conservation easement.
Dust	Use best management practices to control dust.
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed. Restore corridors or connections to offsite habitats by replanting.

2. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
3. Increased Wetland Buffer Widths. The city shall require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:
  - a. A larger buffer is needed to protect other critical areas;
  - b. The buffer or adjacent uplands has a slope greater than fifteen percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or
  - c. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include provisions for monitoring and maintenance to ensure success.
  - d. At no time shall wetland buffers be increased to a width two times that of the standard required buffer.
4. Reduction of Wetland Buffer Widths.
  - a. The city may allow the standard wetland buffer width to be reduced in accordance with the report and the best available science on a case-by-case basis when it is determined that a smaller area is adequate to protect the wetland functions and values based on site-specific characteristics.
  - b. This determination shall be supported by documentation showing that a reduced buffer is adequate based on all of the following criteria:
    - i. Requiring the standard buffer poses an extraordinary hardship on the landowner;
    - ii. The existing buffer area is well vegetated with native species and has less than ten percent slopes; and
    - iii. No direct or indirect short-term or long-term adverse impacts to wetlands will

result from the proposed activity.

- c. The city may require long-term monitoring of the buffer and wetland. Subsequent corrective actions may be required if adverse impacts to wetlands are discovered during the monitoring period.
- d. In no case shall the standard buffer width be reduced by more than fifty percent, or the buffer width be less than fifty feet, whichever is greater, unless the applicant demonstrates an acceptable reasonable use as described in Section 16.10.120.
- e. Isolated Category 3 and 4 wetlands less than 1,000 square feet may be exempt from the buffer provisions contained in this Chapter and the normal mitigation sequencing process. They may be displaced if impacts are fully mitigated. Such wetlands:
  - i. Are not associated with riparian areas or buffers.
  - ii. Are not part of a wetland mosaic.
  - iii. Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

**Section 5.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.20.050 and Prosser Municipal Code Section 16.20.050 are both hereby amended and reenacted to read as follows:

**16.20.050 Performance standards—Mitigation requirements.**

- A. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions and shall be consistent with the Department of Ecology “Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals,” 1994, as revised.
- B. Mitigation Shall Result in No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area except when the following criteria are met:
  - 1. The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment using Department of Ecology “Methods for Assessing Wetland Functions, Volume 2, Depressional Wetlands in the Columbia Basin of Eastern Washington, Parts 1 and 2,” December 2000; or
  - 2. The lost wetland area provides minimal functions as determined by a site-specific function assessment and other protected or enhanced habitats provide greater benefits to the functioning of the watershed, such as riparian habitat protection and enhancement.
- C. Mitigation for Lost Functions and Values. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment protocol; or
  2. Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.
- D. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:
1. Restoring wetlands on upland sites that were formerly wetlands.
  2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.
  3. Enhancing significantly degraded wetlands.
  4. Preserving high-quality wetlands that are under imminent threat.
- E. Type and Location of Mitigation. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when the following apply:
1. There are no reasonable on-site opportunities or on-site opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or connectivity are inadequate;
  2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
  3. Off-site locations shall be in the same subdrainage basin and the same water resource inventory area (WRIA) unless:
    - a. The impact is located near the boundary of a WRIA;
    - b. Established regional or watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or
    - c. Credits from a state-certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.
- F. Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

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

G. Mitigation Ratios.

1. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank’s certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

<b>Wetland Mitigation Ratios</b>				
<b>Category and Type of Wetland</b>	<b>Creation or Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement</b>	<b>Preservation</b>
Category I: Bog, Natural Heritage Site	Not considered possible	6:1	Case by case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on Functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

Note: Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

2. Increased Replacement Ratio. The city may increase the ratios under the following circumstances:
  - a. Uncertainty exists as to the probable success of the proposed restoration or creation; or

- b. A significant period of time will elapse between impact and replication of wetland functions; or
  - c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
  - d. The impact was an unauthorized impact.
3. Decreased Replacement Ratio. The city may decrease these ratios under the following circumstances:
- a. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high likelihood of success;
  - b. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or
  - c. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
4. Minimum Replacement Ratio. In all cases, a minimum acreage replacement ratio of one-to-one shall be required.

#### H. Wetland Mitigation Banks.

- 1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
  - a. The bank is certified under Chapter 173-700 WAC;
  - b. The city determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
  - c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.
- 2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
- 3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one water resource inventory area (WRIA) for specific wetland functions.

#### I. Wetlands Enhancement as Mitigation.

- 1. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection G of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.

J. Wetland Preservation as Mitigation. Impacts to wetlands may be mitigated by preservation of wetland areas when used in combination with other forms of mitigation such as creation, restoration, or enhancement at the preservation site or at a separate location. Preservation may also be used by itself, but more restrictions, as outlined below, will apply.

1. Preservation in Combination with Other Forms of Compensation. Preservation as mitigation is acceptable when done in combination with restoration, creation, or enhancement; providing, that a minimum of one-to-one acreage replacement is provided by restoration or creation and the criteria below are met.
  - a. The impact area is small and/or impacts are to a Category III or IV wetland;
  - b. Preservation of a high-quality system occurs in the same water resource inventory area (WRIA) or watershed basin as the wetland impact; and
  - c. Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
2. Preservation as the Sole Means of Mitigation for Wetland Impacts. Preservation of at-risk, high-quality habitat may be considered as the sole means of mitigation for wetland impacts when all of the following criteria are met:
  - a. Preservation is used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied;
  - b. Creation, restoration, and enhancement opportunities have also been considered, and preservation is the best mitigation option;
  - c. The impact area is small and/or impacts are to a Category III or IV wetland;
  - d. Preservation of a high-quality system occurs in the same water resource inventory area (WRIA) or a watershed where the wetland impact occurs;
  - e. Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation;
  - f. The preservation site is determined to be under imminent threat, specifically, sites with the potential to experience a high rate of undesirable ecological change due to on-site or off-site activities (“potential” includes permitted, planned, or perceived actions); and
  - g. The area proposed for preservation is of high quality and critical for the health of the watershed or basin. Some of the following features may be indicative of high-quality sites:
    - i. Category I or II wetland rating;
    - ii. Rare wetland type (for example, bogs, estuaries);

- iii. Habitat for threatened or endangered species;
  - iv. Wetland type that is rare in the area;
  - v. Provides biological and/or hydrological connectivity;
  - vi. High regional or watershed importance (for example, listed as priority site in watershed plan); and
  - vii. Large size with high species diversity (plants and/or animals) and/or high abundance.
3. Mitigation Ratios for Preservation as the Sole Means of Mitigation. Mitigation ratios for preservation as the sole means of mitigation shall range from seven-to-one to twenty-to-one, as determined by the city, depending on the quality of wetlands being mitigated and the quality of the wetlands being preserved.

K. Mitigation Maintenance and Monitoring. Mitigation areas will be maintained and monitored for a minimum of five years after the mitigation has been completed. Annual maintenance and monitoring reports will be submitted to the city and shall include:

- 1. Descriptive data for vegetation, soils, and hydrology;
- 2. Itemized list of dead, dying, and replaced vegetation;
- 3. Quantitative assessment of invasive species;
- 4. Descriptive photographs;
- 5. Statement of overall success of mitigation;
- 6. Schedule of activities for the next year of maintenance and monitoring.

The city may extend maintenance and monitoring for mitigation projects that fail to achieve performance standards outlined in the mitigation plan. An example of a performance failure is less than eighty percent survival of native vegetation or more than ten percent of the mitigation area cover with nonnative invasive species.

**Section 6.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.60.040 and Prosser Municipal Code Section 16.60.040 are both hereby amended and reenacted to read as follows:

**16.60.040 Performance standards—Specific habitats.**

- A. Endangered, Threatened, and Sensitive Species.
- 1. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.
  - 2. Whenever activities are proposed adjacent to a habitat conservation area with which

state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a report prepared by a qualified professional and submitted to the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Department of Fish and Wildlife and the appropriate federal agency.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within eight hundred feet, or within a quarter mile (two thousand six hundred forty feet) and in a shoreline foraging area. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Department of Fish and Wildlife.

B. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland development performance standards set forth in Chapter 16.20, in addition to meeting the habitat conservation area standards in this chapter.

C. Riparian Habitat Areas. Unless otherwise allowed in this title, all structures and activities shall be located outside of the riparian habitat area.

1. Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic systems.
2. Riparian Habitat Area Widths. Recommended riparian habitat area widths are shown in the table below. A riparian habitat area shall have the width recommended, unless a greater width is required pursuant to subsection (C)(3) of this Section, or a lesser width is allowed pursuant to subsection (C)(4) of this Section. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. Riparian areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of in-stream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

<b>Riparian Habitat Areas</b>	
Stream Type	Recommended RHA Widths <sup>1</sup>
Types 1 and 2—Shorelines of statewide significance (Yakima River)	200 feet
Where specific reach-based buffers are adopted in Title 16.04 Shoreline Management, the	

reach-based buffers may be employed in lieu of the above.	
Type 3 or other perennial or fish-bearing streams	75 feet
Types 4 and 5	50 feet

3. Increased Riparian Habitat Area Widths. The recommended riparian habitat area widths shall be increased in the following cases:
  - a. When the city determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
  - b. When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
  - c. When the channel migration zone exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the channel migration zone;
  - d. When the habitat area is in an area of high blowdown potential, the riparian habitat area shall be expanded an additional fifty feet on the windward side;<sup>2</sup> or
  - e. When the habitat area is within an erosion or landslide hazard area or buffer, the riparian habitat area shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
  
4. Riparian Habitat Area Width Averaging. The city may allow the recommended riparian habitat area width to be reduced in accordance with a report only if:
  - a. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;
  - b. The width reduction will not degrade the habitat;
  - c. The proposal will provide additional habitat protection;
  - d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
  - e. The recommended riparian habitat area width is not reduced by more than fifty percent in any one location;
  - f. The recommended riparian habitat area width is not reduced to less than fifty feet;
  - g. The width reduction will not be located within another critical area or associated buffer;
  - h. The reduced riparian habitat area width is supported by best available science;
  - i. All undeveloped lands within total area will be left undeveloped in perpetuity by covenant, deed restriction, easement or other legally binding mechanism;
  - j. The buffer averaging plan shall be conducted in consultation with a qualified

biologist and the plan shall be submitted to the Washington Department of Fish and Wildlife for comment;

- k. The director shall use the recommendations of the qualified experts in making his/her decision on a plan that uses buffer averaging.
5. Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values, on a per function basis, and be located in the same subdrainage basin as the habitat impacted.
6. Alternative Mitigation for Riparian Habitat Areas. The requirements set forth in this section may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

D. Riparian Habitat Areas, Ponds, Lakes, and Waters of the State.<sup>3</sup> The following specific activities may be permitted within riparian habitat areas, ponds, lakes, waters of the state, or associated buffers when the activities comply with the provisions set forth in applicable city regulations and subject to the following standards:

1. Clearing and Grading. When clearing and grading are permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:
  - a. Grading is allowed only when soil conditions are dry and the potential for erosion is low.
  - b. Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.
  - c. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.
  - d. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
  - e. Erosion and sediment control that meets or exceeds the standards set forth in the adopted storm water management regulations shall be provided.
2. Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with a report that demonstrates the following:
  - a. Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one quarter mile of the project area.
  - b. The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.
  - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the proposed shoreline

erosion control measures.

3. Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with the report.
4. Launching Ramps—Public or Private. Launching ramps may be permitted in accordance with the report that has demonstrated the following:
  - a. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the site;
  - b. The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;
  - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the ramp.
5. Docks. Repair and maintenance of an existing dock or pier may be permitted in accordance with the report subject to the following:
  - a. There is no increase in the use of materials creating shade for predator species;
  - b. There is no expansion in overwater coverage;
  - c. There is no increase in the size and number of pilings; and
  - d. There is no use of toxic materials (such as creosote) that come in contact with the water.
6. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to thirty feet wide, may be permitted in accordance with the report subject to the following standards:
  - a. There is no other feasible alternative route with less impact on the environment;
  - b. The crossing minimizes interruption of downstream movement of wood and gravel;
  - c. Mitigation for impacts is provided pursuant to a mitigation plan of the report;
  - d. Road bridges are designed according to the Department of Fish and Wildlife “Fish Passage Design at Road Culverts,” March 1999, and the National Marine Fisheries Service “Guidelines for Salmonid Passage at Stream Crossings,” 2000; and
  - e. Trails and associated viewing platforms shall not be made of continuous impervious materials.
7. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with the report if they comply with the following standards:
  - a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
  - b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
  - c. The utilities shall cross at an angle greater than sixty degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring

- under the channel is not feasible;
- d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
  - e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
  - f. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.
8. **Public Flood Protection Measures.** New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review of a report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.
  9. **In-Stream Structures.** In-stream structures, such as, but not limited to, high flow bypasses, sediment ponds, in-stream ponds, retention and detention facilities, tide gates, dams, and weirs shall be allowed only as part of an approved watershed basin restoration project approved by the city and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.
  10. **Storm Water Conveyance Facilities.** Conveyance structures may be permitted in accordance with the report subject to the following standards:
    - a. No other feasible alternatives with less impact exist;
    - b. Mitigation for impacts is provided;
    - c. Storm water conveyance facilities shall incorporate fish habitat features; and
    - d. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.
  11. **On-Site Sewage Systems and Wells.**
    - a. New on-site sewage systems and individual wells may be permitted in accordance with the report only if accessory to an approved residential structure for which it is not feasible to connect to a public sanitary sewer system.
    - b. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:
      - i. Connection to an available public sanitary sewer system;
      - ii. Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the Benton County health department; or
      - iii. Repair to the existing on-site septic system.

E. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:
  - a. Activities shall be timed to occur only during the allowable work window as designated by the Department of Fish and Wildlife for the applicable species;
  - b. An alternative alignment or location for the activity is not feasible;
  - c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and
  - d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.
2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.
3. Fills may only intrude into water bodies used by anadromous fish when the applicant demonstrates that the fill is for a water-dependent use that is in the public interest and when the fill is consistent with other applicable regulations adopted by the city, including but not limited to permitting process construction standards, building code, shorelines management program, and environmental review (SEPA) procedures.

<sup>1</sup> Recommended riparian habitat widths are adapted from Department of Fish and Wildlife, 1997: "Management Recommendations for Washington's Priority Habitats: Riparian."

<sup>2</sup> See "Management Recommendations for Washington's Priority Habitats: Riparian" from the Washington Department of Fish and Wildlife.

<sup>3</sup>The performance standards for riparian habitat areas, ponds, lakes, waters of the state, and marine habitat are partially derived from the Pierce County "Draft Critical Areas Development Regulations," March 2002.

**Section 7.** The City Council hereby adopts the findings made by the Planning Commission on May 15, 2014, as the findings of the City Council in support of this ordinance.

**Section 8.** **SEVERABILITY.** The provisions of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of this ordinance shall not as a result of said section, sentence, clause, or phrase be held unconstitutional or invalid.

**Section 9.** Five days after publication of an approved summary of this ordinance consisting of its title, and after the date approved by the Washington State Department of Ecology pursuant to RCW 36.70.480(2) and RCW 90.58.090(1), whichever is later, this ordinance shall be in full force and effect.

**PASSED** by the City Council and **APPROVED** by the Mayor, this 24<sup>th</sup> day of June, 2014.

\_\_\_\_\_  
**MAYOR PAUL WARDEN**

ATTEST:

\_\_\_\_\_  
**CITY CLERK, RACHEL SHAW**

Approved as to form:

  
\_\_\_\_\_  
**CITY ATTORNEY, HOWARD SAXTON**

Date of Publication: \_\_\_\_\_

**SUMMARY OF ORDINANCE NO. 14-\_\_\_\_\_**

of the City of Prosser, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 2014, the City of Prosser, Washington, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE AMENDING PROSSER MUNICIPAL CODE SECTIONS 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, AND 16.60.040 OF THE CITIES CRITICAL AREAS ORDINANCE TO MAKE IS CONSISTENT WITH THE CITY'S SHORELINE MASTER PROGRAM. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.

The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014

---

CITY CLERK, RACHEL SHAW

The Planning Commission hereby adopts the following findings to support its recommendation that the City Council adopt, as drafted, the Ordinances updating the City's Shoreline Master Program, including the Comprehensive Plan, Shoreline Management regulations, and the Critical Areas regulations. These findings also support the recommendation to Council that it adopt the Land Use Map Changes as provided for below.

1. The City of Prosser last adopted a Comprehensive Plan, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, on April 5, 2011, by passage of Ordinance Number 11-2718.
2. In accordance with RCW 36.70A.130, an adopted Comprehensive Plan is subject to continuing evaluation and review, and amendments to the Comprehensive Plan shall be considered no more frequently than once every year. The Shoreline Management section of the Comprehensive Plan amendment is being adopted pursuant to the update of the City's Shoreline Master Program.
3. The City has provided for public participation in the development and review of the proposed amendments in accordance with its public participation plans through the City's Planning Commission and City Council. The city had two public participation plans: one for the Shoreline Master Program Update and one for the Land Use Map Amendment.
4. The City encouraged public participation and provided information on the Comprehensive Plan Amendment on its website (<http://www.cityofprosser.com>).
5. As a result of the City's efforts, the public has had extensive opportunities to participate throughout the Comprehensive Plan amendment process and all persons desiring to comment on the proposed amendments were given a full and complete opportunity to be heard.
6. On February 20, 2014, the Planning Commission recommended that the City Council approve the Comprehensive Plan, in the form to be filed by the Planning Department with the City Clerk on May 16, 2014.
7. The Comprehensive Plan filed with the City Clerk on June 19, 2014, by the planning department complies with requirements of the Growth Management Act, addresses all of the goals and requirements set forth in the Growth Management Act, and will protect and promote the health, safety and welfare of the general public.
8. The City Council will hold a public hearing and will take public testimony regarding the Comprehensive Plan Amendments, in accordance with PMC 19.01.040.
9. The Planning Commission followed the process for Comprehensive Plan Amendments provided for in Prosser Municipal Code (PMC) Chapter 19.01.
10. There was no public testimony on the SMP update.
11. The following provided oral testimony at one or more of the hearings on the update to the

Land Use Map: Mike Mortimore, Rory Calhoon, Susana Herмосillo, Ancencion Herмосillo, Alicia V. Ramirez, John Gibbons, Florence Mortimore, Stacy Dial, Ben Fesko, Francesca Santos, Roger Meyers, and Judy Brulotte.

12. The following submitted written materials regarding the SMP update: Washington State Department of Ecology.

13. The following submitted written materials regarding the Land Use Map update: Lou Hamilton, Ben Fesko, Michael Mortimore, Judy Brulotte and a Petition signed by the following: Michael Mortimore, Florence Mortimore, Benjamin Fesko, Francesca Santos, Roger Meyers, Alma Delia Garcia, Richard Trimble, Rory Calhoon, Julie Trimble, Richard Trimble, Kayla (undecipherable), Andrew Dial, Stacy Dial, Lou Hamilton, Judy Brulotte, and (undecipherable) de Rivera.

14. The Planning Commission held a workshop on the Comprehensive Plan on August 15, 2013, and held public hearings on the following dates: September 19, 2013, October 17, 2013, November 21, 2013, December 12, 2013, and February 20, 2014.

15. The Planning Commission held workshops on the Shoreline Master Program update on the following dates: November 15, 2012, December 6, 2012, March 21, 2013, May 16, 2013, September 19, 2013, October 17, 2013, November 21, 2013, and December 12, 2013.

16. The Planning Commission held a public hearing on the Shoreline Master Program update on February 20, 2014.

17. The City published notices of all public hearings in the Prosser Record Bulletin and provided additional notice as follows: notice by mail to parties whose properties were affected by the amendments to the Land Use Map; and by notice to all parties who signed in to participate at any previous hearing.

18. All notices required by RCW 36.70A.020 and the Prosser Municipal Code have been provided to interested parties.

19. All Comprehensive Plan Amendments and all text amendments are legislative actions pursuant to Prosser Municipal Code (PMC) 19.01.040 and .060.

20. The amendments to the Comprehensive Plan and SMP are consistent with the goals, policies, and requirements of the Growth Management Act (GMA) and the Shoreline Management Act. The Comprehensive Plan will continue to promote the planning goals of the GMA. No conflict with the final Comprehensive Plan and the Benton County Countywide planning goals was noted. The amendments are consistent with the City's Public Participation Plans. The plan and the Land Use Map (LUM) adopted within it are consistent with each other.

21. The City submitted the Comprehensive Plan Land Use Amendments for sixty-day review by the State on January 9, 2014.

22. The City submitted the Shoreline Master Program, including the Comprehensive Plan Shoreline Management changes to the Washington State Department of Commerce for sixty-day review on March 17, 2014.
23. The Comprehensive Plan amendments are consistent with RCW 36.70A.070 and RCW Chapter 90.58 (SMA) and WAC Chapter 173-26.
24. The State of Washington in accordance with RCW Chapter 90.58 and WAC 173-26 of the Revised Code of Washington (RCW) has mandated that the City of Prosser update the Prosser Shoreline Master Program (SMP).
25. The City of Prosser's SMP was originally adopted in 1973, and minor updates were made in 1974, 1975, and 1981.
26. On July 10, 2012, the City contracted with Anchor QEA to develop the City's SMP update which was paid for with a grant from the State Department of Ecology (DOE).
27. Before approval of the SMP, the Director of DOE must formally conclude that the proposed SMP update, when implemented over its planning horizon, typically 20 years, will result in "no net loss of ecological functions necessary to sustain shoreline natural function."
28. Anchor QEA conducted a Cumulative Impact Analysis of the SMP update and concluded that it would have either no net loss or a net improvement of shoreline function within the City of Prosser.
29. The Prosser Planning Commission held a public hearing on February 20, 2014, and made a recommendation on that date to the City Council to approve the proposed SMP update including changes to the Comprehensive Plan, Critical Areas Ordinance, and to the Shoreline Regulations.
30. The City Council reviewed the proposed SMP update at a work session on March 4, 2014, and held a public hearing on March 11, 2014. On March 11, 2014, the City Council approved resolution Number 14-1446 authorizing administration to submit the Shoreline Master Program to the Washington State Department of Ecology for review.
31. The SMP was submitted to Ecology for initial review on March 17, 2014.
32. The Washington State Department of Ecology has not made any comments on the City's Shoreline Master Program update after March 17, 2014.
33. The SMP encourages development of water oriented uses, but due to the lack of commercial navigability of the Yakima River, other uses are allowed.
34. The SMP encourages public access to shorelines through private ownership allowing public access, dedication to the public of access easements to the State-owned shorelines, or by providing for visual access where physical access may be dangerous or inconsistent with the

adjacent use. The program provides for a trail system parallel to the Yakima River, where feasible. Public access, in this context, means the ability of citizens to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

35. The SMP through its shoreline restoration plan and the provisions of Prosser Municipal Code Chapters 16.04, 16.10, 16.20, and 16.60 will ensure that no net loss of ecological function of the Yakima River and its shorelines will occur due to development.

36. Pursuant to the SMA, at RCW 90.58.050, the City of Prosser and the State Department of Ecology share joint authority and responsibility for the administration of the City of Prosser SMP. Because the City's SMP is approved by the State Department of Ecology, it has the authority of State Law.

37. The comprehensive update of the City of Prosser SMP consisting of Goals and Policies set forth in the Comprehensive Plan, Shoreline Designation Maps, Shoreline Restoration Plan, and amended Prosser Municipal Code Chapters 16.04, 16.10, 16.20, and 16.60 meets the State Requirements as well as accurately reflects circumstance present in the City of Prosser and within its Urban Growth Area.

38. The City Council may make additional findings after final Washington State Department of Ecology approval.

39. The following amendments are made to the Comprehensive Plan and Land Use Map (LUM) designations for the following reasons:

**Amendment # 1**

**Proposed Amendment:**

LUM change from Industrial (I) to Low Medium Residential (LMR). This area is 58.86 acres and consists of 17 tax parcels most of which are in use as single family homes. It is located North of I-82 and South of Johnson Road. The area to the South of this area is currently designated as Commercial (C).

**Rationale:**

The increased number of residential uses in the area has rendered it unsuitable for industrial development. In addition, the subdivision of lots in the area has resulted in many small lots that are not suitable for industrial development.

**Recommendation:**

On February 20, 2014, the Planning Commission recommended approval of this amendment.

**Amendment # 2**

**Proposed Amendment:**

LUM change from Public Lands (P) to Industrial (I). This area is the northeastern portion of the City-owned sprayfield. It consists of 22.29 acres and is adjacent to Interstate 82.

**Rationale:**

This change to Industrial (I) will partially make up the loss of 58.86 acres of Industrial (I) designated lands caused by Amendment Number 1 above and Number 3 (80 acres) below. Because of the proximity to the Freeway, this land is ideally suited for industrial development and such development will mitigate the impacts caused by the Freeway.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 3**

**Proposed Amendment:**

LUM change from Industrial (I) to Commercial (C). This area is 80 acres divided into 6 parcels along Gap Road north of the Freeway and the southern portion is directly adjacent to the Freeway interchange with Gap Road.

**Rationale:**

As evidenced by the commercial development of the area directly south of this interchange, this area is also likely to develop with commercial uses if designated

Commercial (C). The current designation as Industrial (I) would not be the highest and best use of this property.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 4**

**Proposed Amendment:**

LUM change from Steep Slope Residential (SSR) to Public Lands (P). This area is one acre and is one tax parcel. It is owned by the City and is owned by the City's water utility.

**Rationale:**

Since this property is owned by the City's water utility, it is improperly designated as Steep Slope Residential (SSR) which is intended as an area for residential development. Since the City is prohibited from engaging in residential development (outside of a housing authority), this property is improperly designated for residential uses. The city has no plans to use or sell the property for use as a housing project.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 5:**

**Proposed Amendment:**

LUM change from High Density Residential (HDR) to Commercial (C). This property is one tax parcel and is 2.58 acres. It is located on the northerly corner of the Intersection of

Wine Country Road and OIE.

**Rationale:**

The current designation is a mapping error that must be corrected. All lands along Wine Country Road North of Wamba Road are required to be zoned Commercial Thoroughfare. In order to properly zone this property, the land use designation needs to be changed to Commercial (C).

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 6**

**Proposed Amendment:**

LUM change from Low Medium Density Residential (LMR) to Public Lands (PL) for the lot along Wine Country Road owned by the City water utility and containing the City's new water tower.

**Rationale:**

Since this property is owned by the City's water utility, it is improperly designated as Low Medium Density Residential (LMR) which is intended as an area for residential development. Since the City is prohibited from engaging in residential development (outside of a housing authority), this property is improperly designated. The city has no plans to use or sell the property for use as a housing project.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

## **Amendment # 7**

### **Proposed Amendment:**

Adding new language to the Shoreline Management section of the Plan to make it consistent with the new Shoreline Management Program and Critical Areas Ordinance being adopted concurrently with this Ordinance. The amendment adds a summary statement to the Plan and adopts the following new goals (underlying policies supporting the goals are also set forth in the plan):

1. Goal SH1 Shoreline Use Element. Ensure appropriate conservation and development of the City of Prosser's shorelines by allowing those uses which are water-dependent, as well as other development which provides an opportunity for a substantial number of people to enjoy the shorelines. This should be done in a manner which will achieve an orderly balance of shoreline uses that improves the quality of the environment.
2. Goal SH 2 Shoreline Economic Development Element. Give priority to those industrial, commercial, and recreational developments that are particularly dependent on their location on the City of Prosser's shoreline. Encourage development that will provide the public with an opportunity to enjoy the shorelines. No net loss of ecological function is envisioned in the implementation of this goal.
3. Goal SH 3 Shoreline Economic Development Element. Develop safe, convenient, and diversified shoreline circulation systems to assure efficient movement of goods and people with minimum disruptions to the shoreline environment and minimum conflict between the different users.

4. Goal SH 4 Restoration and Conservation Element. Assure protection, preservation, and restoration of City of Prosser's, fragile and scenic nonrenewable resources, while encouraging the best management practices to assure no net loss of shoreline ecological functions.
5. Goal SH 5 Public Access Element. Ensure safe, convenient, and diversified access for the public to the publicly-owned shorelines of the City of Prosser and assure that the intrusions created by public access will recognize the rights of private property owners, and will not adversely affect fragile natural areas.
6. Goal SH 6 Goal: Recreational Element. Provide additional opportunities for diverse forms of public recreation and improvement of present facilities.
7. Goal SH 7 Historical/Cultural Element. Protect, preserve, and encourage restoration of those sites and areas on the shoreline which have significant historical, cultural, educational, or scientific value.
8. Goal SH 8 Flood Hazard Element. To minimize flood hazards to human life and to property while enhancing the ecological processes of the shoreline.

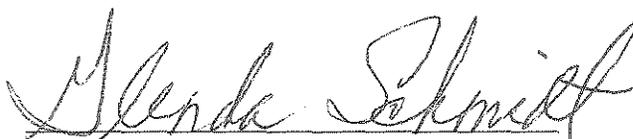
**Rationale:**

The new language regarding Shoreline Management is being adopted pursuant to the adoption of the new Shoreline Management Program.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

Dated: 6-19-14

  
Chair



---

Secretary

C:\Users\howard\AppData\Roaming\Microsoft\Templates\Normal.dotm

**CITY OF PROSSER, WASHINGTON**

**AGENDA BILL**

<p><b><u>Agenda Title:</u></b> Public Hearing on the revised SMP</p> <p>1. Review Ordinance 14-_____ Repealing the Existing Shoreline Master Program Contained in Prosser Municipal Code Chapter 16.04, adopting a New Shoreline Master Program and adopting Shoreline Designation Maps.</p> <p>2. Review Ordinance 14-_____ Amending Prosser Municipal Code Sections 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, and 16.60.040 of the City's Critical Areas Ordinance to make it Consistent with the City's Shoreline Master Program</p>		<p><b><u>Meeting Date:</u></b> May 27, 2014 Regular Meeting</p>		
<p><b><u>Department:</u></b> Planning</p>		<p><b><u>Director:</u></b> Steve Zetz</p>	<p><b><u>Contact Person:</u></b> Steve Zetz Howard Saxton</p>	<p><b><u>Phone Number:</u></b> (509) 786-8212</p>
<p><b><u>Cost of Proposal:</u></b> This is part of the grant awarded to us by the Department of Ecology for the purpose of updating the Shoreline Master Program.</p>			<p><b><u>Account Number:</u></b></p>	
<p><b><u>Amount Budgeted:</u></b> NA</p>			<p><b><u>Name and Fund#</u></b></p>	
<p><b><u>Attachments to Agenda Packet Item:</u></b></p> <ol style="list-style-type: none"> <li>1. Public Hearing Notice</li> <li>2. Reach Maps</li> <li>3. Shoreline Master Program Update</li> <li>4. Application</li> <li>5. SEPA</li> <li>6. Department of Commerce Letter</li> <li>7. Ordinance 14-_____ Shoreline Master Program</li> <li>8. Ordinance 14-_____ Critical Areas</li> <li>9.</li> </ol>				
<p><b><u>Summary Statement:</u></b></p> <p>The Shoreline Master Program (SMP) Update is a process mandated by RCW 90.50.080. After nearly two years, the SMP is in final form and a public hearing was held by the Planning Commission on February 20, 2014, where it recommended the SMP for approval. Council</p>				

**FILE COPY**

previously reviewed the SMP on March 11, 2014, when it approved resolution Number 14-1446 submitting the SMP to the Department of Ecology for review. The SMP has now been placed into ordinance form (the SMP update to the Comprehensive Plan is covered in a separate agenda bill). The next step in the process is for the Council to review the final SMP and pass ordinances adopting the changes. These ordinances will then be submitted to the Department of Ecology for final review. If changes are required by the Department of Ecology, then the Planning Commission and the City Council may have to hold additional public hearings. The Council will adopt these ordinances after the continued public hearing is closed on June 24, 2014.

Staff worked with the Department of Ecology and Anchor QEA to pare down the size of the SMP. In most cases the Department of Ecology noted that the majority of the sections in question were required by the State. The final result is 96 pages which is less than the original template that was first proposed to the Planning Commission.

While the SMP functions as a single document there are specific sections that the Council may wish to review with closer scrutiny.

- Reach location and Identification
- Uses allowed and identified within reaches 16.04.41 (Page 47)

The reaches break down the shorelines into specific segments, and the allowed and identified uses are just that. Those uses that have been identified (existing) and those uses which are allowed (permitted) as well as those uses which are preferred (not required but there can be incentives to encourage the preferred uses).

### **16.04.100 Permitted Use Table**

- A. The following table determines which shoreline uses are allowed or prohibited in each shoreline environment.
- B. Land uses allowed are subject to the preference for water-oriented uses and subject to specific criteria for uses and shoreline modification included in these regulations.
- C. Uses allowed in the Aquatic Environment are those allowed in the adjacent upland environment and limited to water-dependent use, ecological enhancement, and those transportation and utility facilities and Essential Public Facilities for which no alternative location is feasible.
- D. Land uses in the underlying zoning that require a conditional use permit in the underlying zoning district, require a shoreline conditional use permit.
- E. If a use is prohibited in the underlying zoning district, it is also prohibited in shoreline management act jurisdiction.
- F. KEY: X= Prohibited, P= Permitted, CU= Conditional Use Permit, PA=Permitted only as an accessory to a permitted use, Z = Permitted subject to underlying zoning.

G. A use is considered unclassified when it is not listed in the in the Shoreline Modifications and Uses Regulations and is allowed in underlying zoning. A proposed unclassified use may be authorized as a conditional use provided that the applicant can demonstrate consistency with the requirements of this Master Program and the requirements for conditional uses.

Use	Agribusiness	Agri-Tourism	Commercial	Industrial	Residential	Recreation	Urban Conservancy
<b>Resource</b>							
Aquaculture	CU	CU	CU	CU	CU	X	X
Agriculture, except for dairying, poultry raising, and livestock	P	P	X	X	X	X	X
Dairying; poultry raising; livestock; and labor camps	X	X	X	X	X	X	X
Mining	X	X	X	CU	X	X	X
<b>Residential</b>	X	X	X	X	X	X	X
One single family dwelling per lot	Z	Z	Z	Z	P	CU	CU
Duplex	X	X	X	X	Z	X	X
Multifamily	X	Z	X	X	Z	X	X
Mobile home park	X	X	X	X	Z	X	X
Accessory Dwelling Unit (RCW 43.63A.215)	X	X	X	X	P	X	X
Bed and breakfast	X	Z	X	X	CU	X	X
Home occupation	X	X	X	X	Z	X	X
<b>Public and Quasi Public Uses</b>							
Boat launches	CU	CU	CU	CU	CU	CU	CU
Public recreational facilities	P	P	P	P	P	P	CU
Private recreational facilities	P	P	P	P	CU	P	X
Campgrounds	X	CU	CU	X	X	X	X
Golf courses	CU	X	X	X	CU	X	CU
Trails hard surface	P	P	P	P	P	P	CU
Trails soft surface	P	P	P	P	P	P	P
Commercial recreation: Fitness centers/sport clubs	X	X	P	X	X	X	X
Commercial amusement facilities	X	X	X	X	X	X	X
Civic and community buildings	CU	CU	CU	CU	CU	CU	X

Public or private schools	CU	CU	CU	CU	CU	CU	X
Government offices	CU	CU	CU	CU	CU	CU	X
Nursery school and day care center	X	X	Z	X	CU	X	X
Family day care center (RCW 35.63.185)	X	X	P	X	P	X	X
Museums	CU	CU	CU	CU	CU	CU	X
Nursing homes, homes for the aged	X	X	Z	X	X	X	X
Hospitals and health care facilities	X	X	CU	X	X	X	X
Churches	CU	CU	CU	CU	CU	CU	X
Irrigation facilities, dams, canals, etc.	CU						
Essential public facilities	CU						
<b>Commercial/Retail</b>	X	X	X	X	X	X	X
Marine sales, service, and rental	X	P	P	X	X	X	X
Marina	X	CU	CU	X	CU	X	X
Bakeries, barber and beauty shops, etc.	X	P	P	X	X	X	X
Commercial laundry and dry cleaning	X	X	CU	X	X	X	X
Retail uses	X	P	P	X	X	X	X
Restaurants	X	P	P	CU	X	X	X
Drinking establishments	X	P	P	PA	X	X	X
Hotel and motel	X	P	P	X	X	X	X
Banqueting halls	X	P	P	X	X	X	X
Resort	X	P	P	X	X	X	X
Recreation vehicle parks	X	X	Z	X	X	X	X
Theaters and amphitheaters	X	P	P	X	X	X	X
Veterinarians and kennels	X	X	X	X	X	X	X
Offices serving a permitted use	P	P	P	P	P	P	X
Offices as a primary use	X	X	X	X	X	X	X
Printing and publishing	X	X	Z	X	X	X	X
On-site hazardous waste treatment and storage	X	X	X	X	X	X	X
Nurseries and greenhouses	P	CU	X	CU	X	X	X
Lumber and building materials	X	X	P	CU	X	X	X
Automotive, truck, RV sales and service	X	X	X	X	X	X	X

Gasoline service station	X	X	X	X	X	X	X
<b>Industrial</b>							
Water-dependent industrial	Z	Z	X	P	X	X	X
Water-related industrial	Z	Z	X	P	X	X	X
Water-oriented industrial	Z	Z	X	P	X	X	X
Agriculture products processing	P	X	X	P	X	X	X
Wineries, including sales	P	P	P	P	X	X	X
Microbreweries	P	P	P	P	X	X	X
Municipal and utility yards	X	X	X	CU	X	X	X
Solid waste processing or disposal	X	X	X	X	X	X	X
Hazardous materials processing or disposal	X	X	X	X	X	X	X
Commercial moving and storage	X	X	X	X	X	X	X
Vessel repair	X	X	X	P	X	X	X
Equipment supply, repair, service	X	X	X	X	X	X	X
Manufacturing, other than food processing	X	X	X	P	X	X	X
Sale of items manufactured on-site	P	P	X	P	X	X	X
Industrial and scientific research laboratories	X	X	X	P	X	X	X
Petroleum, coal, fuel storage distribution	X	X	X	X	X	X	X
Junk or salvage yards	X	X	X	X	X	X	X
Solid waste processing or disposal	X	X	X	X	X	X	X
Hazardous materials processing or disposal	X	X	X	X	X	X	X
Warehouses, storage, distribution	X	X	X	P	X	X	X
<b>Transportation</b>							
Roads and railroads serving shoreline uses	P	P	P	P	P	P	P
Roads and railroads NOT serving shoreline uses	CU						
Park-and-Ride lots	X	X	X	X	X	X	X
Parking areas and facilities serving a primary use within the shoreline	P	P	P	P	P	P	P
Parking areas and facilities NOT serving a primary use within the shoreline	X	X	X	X	X	X	X

Parking as a principal use	X	X	X	X	X	X	X
<b>Utilities</b>							
Public and private utility distribution serving shoreline uses, water, sewer, electrical, gas, and communication	P	P	P	P	P	P	CU
Public and private utility distribution serving uses within the city	P	P	P	P	P	P	CU
Utility facilities serving uses not within the City	CU						
Electrical transmission of greater than 50 Kilovolts	CU						
Gas transmission larger than 6 inches in diameter	CU						
Oil or other pipelines	CU						
Utility buildings (pump stations, etc.)	CU						
Electrical substations	CU	CU	CU	CU	X	X	X

**Consistent with or Comparison to:**

The SMP Update is consistent with State Law.

**Recommended City Council Action/Suggested Motion:**

Move to continue Public Hearing to June 24, 2014 Prosser City Council Meeting at 7:00 p.m.

Review SMP and SMP Ordinances.

**Reviewed by Department Director:**



Date:

**Reviewed by City Attorney:**



Date: 5/20/14

**Approved by Mayor:**



Date: 5-23-14

**Today's Date:**

May 19, 2014

**Revision Number/Date:**

**File Name and Path:**

**CITY OF PROSSER, WASHINGTON**  
**AGENDA BILL**

<u><b>Agenda Title:</b></u> Public Hearing to Receive Citizen Comment on Proposed Ordinance Modifying the City of Prosser Comprehensive Plan and Land Use Map.	<u><b>Meeting Date:</b></u> June 24, 2014 Regular Meeting
--	---

<u><b>Department:</b></u> Planning	<u><b>Director:</b></u> Steve Zetz	<u><b>Contact Person:</b></u> Steve Zetz	<u><b>Phone Number:</b></u> (509) 786-8212
---------------------------------------	---------------------------------------	---	---

<u><b>Cost of Proposal:</b></u> N/A	<u><b>Account Number:</b></u>
<u><b>Amount Budgeted:</b></u> N/A	<u><b>Name and Fund#</b></u>

**Reviewed by Finance Department:**  
N/A

- Attachments to Agenda Packet Item:**
1. Proposed Ordinance 14-\_\_\_\_\_
  2. Proposed Land Use Map
  3. Planning Commission Findings 6-19-2014
  4. Agenda Bill May 27, 2014 (Please refer to May 27, 2014, Packet to view additional material for the Public Hearing, including, but not limited to, the Comprehensive Plan and Shoreline Master Program (SMP) Update).

**Summary Statement:**

The Comprehensive Plan update also includes an amendment to the Section titled "Shoreline Management." That section has been amended to include the following new goals:

1. Goal SH1 Shoreline Use Element. Ensure appropriate conservation and development of the City of Prosser's shorelines by allowing those uses which are water-dependent, as well as other development which provides an opportunity for a substantial number of people to enjoy the shorelines. This should be done in a manner which will achieve an orderly balance of shoreline uses that improves the quality of the environment.
2. Goal SH 2 Shoreline Economic Development Element. Give priority to those industrial, commercial, and recreational developments that are particularly dependent on their location on the City of Prosser's shoreline. Encourage development that will provide the public with an opportunity to enjoy the shorelines. No net loss of ecological function is envisioned in the implementation of this goal.

3. Goal SH 3 Shoreline Economic Development Element. Develop safe, convenient, and diversified shoreline circulation systems to assure efficient movement of goods and people with minimum disruptions to the shoreline environment and minimum conflict between the different users.
4. Goal SH 4 Restoration and Conservation Element. Assure protection, preservation, and restoration of City of Prosser's, fragile and scenic nonrenewable resources, while encouraging the best management practices to assure no net loss of shoreline ecological functions.
5. Goal SH 5 Public Access Element. Ensure safe, convenient, and diversified access for the public to the publicly-owned shorelines of the City of Prosser and assure that the intrusions created by public access will recognize the rights of private property owners, and will not adversely affect fragile natural areas.
6. Goal SH 6 Goal: Recreational Element. Provide additional opportunities for diverse forms of public recreation and improvement of present facilities.
7. Goal SH 7 Historical/Cultural Element. Protect, preserve, and encourage restoration of those sites and areas on the shoreline which have significant historical, cultural, educational, or scientific value.
8. Goal SH 8 Flood Hazard Element. To minimize flood hazards to human life and to property while enhancing the ecological processes of the shoreline.

New policies are also adopted to implement the goals. The policies may be reviewed in the Comprehensive Plan starting on page 54. These goals and policies must be adopted in accordance with the mandate contained in WAC 173-26-176 and the RCW's referenced therein.

**Consistent with or Comparison to:**

EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL

**Recommended City Council Action/Suggested Motion:**

Move to approve Ordinance 14-\_\_\_\_\_ Modifying the City of Prosser Comprehensive Plan and Land Use Map.

**Reviewed by Department Director:**

  
Date: 6/19/2014

**Reviewed by City Attorney:**

  
Date: 6/19/14

**Approved by Mayor:**

NOT Available  
Date:

**CITY OF PROSSER, WASHINGTON**  
**ORDINANCE NO. 14-\_\_\_\_\_**

**AN ORDINANCE AMENDING PROSSER MUNICIPAL CODE SECTIONS 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, AND 16.60.040 OF THE CITY'S CRITICAL AREAS ORDINANCE TO MAKE IT CONSISTENT WITH THE CITY'S SHORELINE MASTER PROGRAM. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.**

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PROSSER, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.10.120 and Prosser Municipal Code Section 16.10.120 are both hereby amended and reenacted to read as follows:

**16.10.120 Exception—Reasonable use.**

- A. Except within the jurisdiction of the Shoreline Management Act RCW 90.58, if the application of this title would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this Section.

**Section 2.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.10.130 and Prosser Municipal Code Section 16.10.130 are both hereby amended and reenacted to read as follows:

**16.10.130 General review process.**

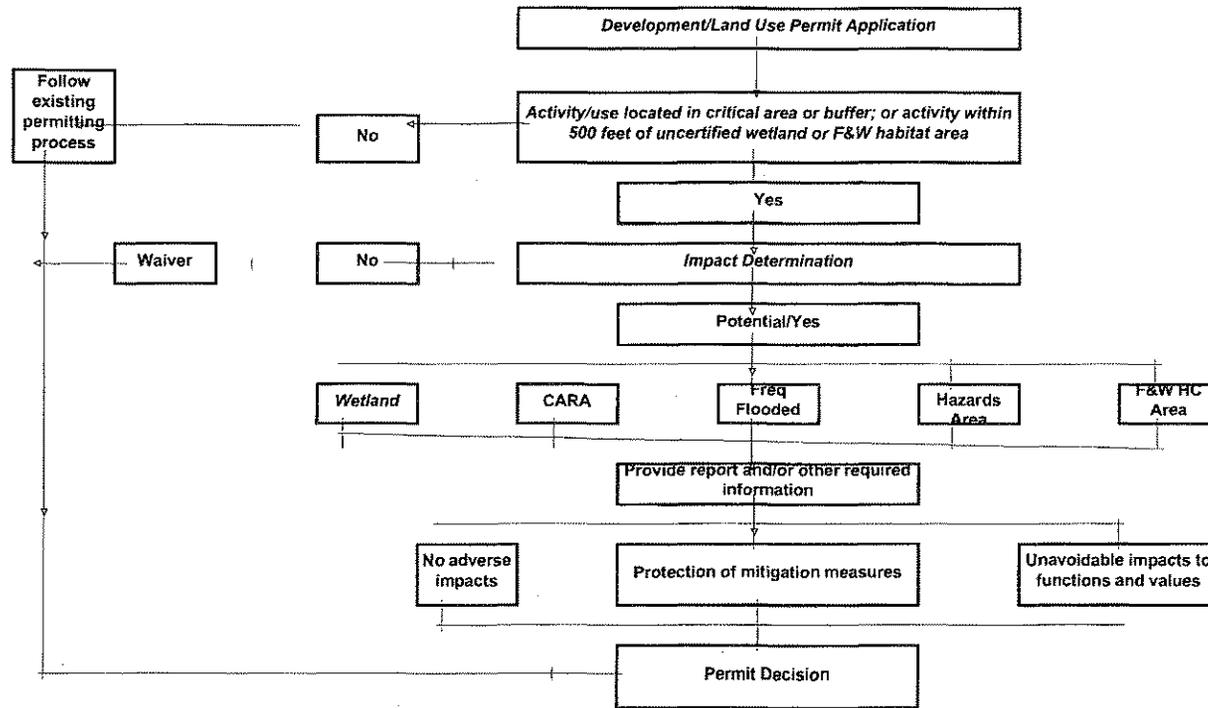
- A. The city shall follow the process discussed below and as outlined in Figure 1 at the end of this section.
1. Verify the information submitted by the applicant for the applicable permit;
  2. Evaluate the project area and vicinity for critical areas;
  3. For wetland, geologically hazardous and/or fish and wildlife habitat conservation areas the city shall require that boundaries be verified and mapped by a qualified professional, and such boundaries be submitted to the city as part of the application for the applicable permit if the project is:
    - a. Within three hundred feet of a wetland or fish and wildlife critical area for which the boundaries have not been certified and depicted by the city on the critical areas map (see Exhibit I of the ordinance codified in this chapter, or the most recent revision thereof); and

- b. Will not be receiving a no-impact waiver as provided in subsection B of this section.  
The scale of the boundary information shall be the same as the city maps;
  4. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
  5. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B. Critical Areas Present, But No Impact—Waiver. If the planning director determines that there are critical areas within or adjacent to the project area, but that the proposed activity is unlikely to degrade the functions or values of the critical area, the planning director may waive the requirement for a report or other applicable information. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
1. There will be no alteration of the critical area or buffer;
  2. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this title; and
  3. The proposal is consistent with other applicable regulations and standards.
  4. The Administrator may recognize that ecological functions of buffers are interrupted by permanent man-made features and may recognize such features as the boundary of the buffer. Such features may include public roads, railroads, publicly maintained levees and other existing permanent improvements that substantially interrupt or impair ecological functions performed by buffers in relation to the adjacent wetland or water body. In such cases, the Administrator may recognize that the buffer extends from the edge of the wetland or the ordinary high water mark of a stream to the edge or the area of vegetation management associated with the road, railroad, levee, or similar facility. In the case of private facilities, the Administrator may recognize that existing structures and impervious surfaces provide the effective limit to buffer functions on existing developed sites and recognize such facilities as the boundary of the buffer, provided that upon substantial redevelopment of a site or facility, the Administrator may require reconfiguration of a site or redesign of features to accommodate buffer dimensions as otherwise provided in this chapter. The Administrator may require appropriate studies by a Qualified Professional to determine whether buffer functions are interrupted or substantially impaired by existing facilities.
- C. Critical Areas Present and Potential Impact Likely. If the planning director determines that the proposed project is within, adjacent to, or is likely to impact a critical area, the planning director shall:
1. Notify the applicant that a critical area report or other applicable information must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed;
  2. Require a critical area report or other applicable information from the applicant that has been prepared by a qualified professional;
  3. Review and evaluate the critical area report and other applicable information to determine whether the development proposal conforms to the purpose and performance standards of

this title;

4. Assess potential impacts to the critical area and determine if they are necessary and unavoidable;
  5. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this title; and
  6. A summary of this analysis and the findings shall be included in any decision on the underlying permit(s). Critical area review findings may result in:
    - a. No adverse impacts to critical area(s);
    - b. List of applicable critical area(s) protection conditions for the underlying permit(s); or
    - c. Denial of permit based upon unavoidable impacts to critical area(s) functions and values.
- D. Within the Jurisdiction of the Shoreline Management Act RCW 90.58, regulations to protect critical areas are intended to be remedial and curative in nature, and to apply retroactively to July 27, 2003.

Figure 1. Critical Area Process/Other Permits



NOTE: Appeal process follows route of associated permit. Appeals of administrative decisions regarding provisions of the critical areas code use the administrative appeal process contained within the city of Prosser zoning code (Title 18) and plat and divisions code (Title 17).

**Section 3.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.20.010 and Prosser Municipal Code Section 16.20.010 are both hereby amended and reenacted to read as follows:

**16.20.010 Designation, rating and mapping wetlands.**

- A. Designating Wetlands. Wetlands are those areas, designated in accordance with the “Washington State Wetland Identification and Delineation Manual,” that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city of Prosser meeting the wetland designation criteria in the “Identification and Delineation Manual,” regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.
- B. Wetland Ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating for Eastern Washington (Ecology Publication No. 04-06-015), or as revised by Ecology. This document contains definitions and methods for determining ratings.

**Section 4.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.20.040 and Prosser Municipal Code Section 16.20.040 are both hereby amended and reenacted to read as follows:

**16.20.040 Performance standards—General requirements.**

- A. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and other critical areas.
- B. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this title.
- C. Wetland Buffers.
  - 1. Standard Buffer Widths. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

<b>WETLAND TYPE</b>	<b>BUFFER</b>
<b>Category I</b>	
Category I 30-36 habitat points	150 feet

Category I 26-29 habitat points	115 feet
Category I 21-25 habitat points	90 feet
Category I >21 habitat points	75 feet
<b>Category II</b>	
Category II 30-36 habitat points	150 feet
Category II 26-29 habitat points	115 feet
Category II 21-25 habitat points	90 feet
Category II >21 habitat points	75 feet
<b>Category III</b>	
Category III 26-29 habitat points	120 feet
Category III 21-25 habitat points	90 feet
Category III >21 habitat points	60 feet
<b>Category IV</b>	40 feet

The following measures shall be incorporated into adjacent development:

Type of Potential Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland.
Noise	Locate activity that generates noise away from wetland. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use Low Intensity Development techniques (per Eastern Washington Low Impact Development Guidance Manual, Washington Department of Ecology publication #13-10-036, June 2013 and as may be hereafter amended, supplemented, or replaced.)).
Change in patterns or water flow	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and human disturbance	Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.

	Place wetland and its buffer in a separate tract or protect with a conservation easement.
Dust	Use best management practices to control dust.
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed. Restore corridors or connections to offsite habitats by replanting.

2. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
3. Increased Wetland Buffer Widths. The city shall require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:
  - a. A larger buffer is needed to protect other critical areas;
  - b. The buffer or adjacent uplands has a slope greater than fifteen percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or
  - c. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include provisions for monitoring and maintenance to ensure success.
  - d. At no time shall wetland buffers be increased to a width two times that of the standard required buffer.
4. Reduction of Wetland Buffer Widths.
  - a. The city may allow the standard wetland buffer width to be reduced in accordance with the report and the best available science on a case-by-case basis when it is determined that a smaller area is adequate to protect the wetland functions and values based on site-specific characteristics.
  - b. This determination shall be supported by documentation showing that a reduced buffer is adequate based on all of the following criteria:
    - i. Requiring the standard buffer poses an extraordinary hardship on the landowner;
    - ii. The existing buffer area is well vegetated with native species and has less than ten percent slopes; and
    - iii. No direct or indirect short-term or long-term adverse impacts to wetlands will

result from the proposed activity.

- c. The city may require long-term monitoring of the buffer and wetland. Subsequent corrective actions may be required if adverse impacts to wetlands are discovered during the monitoring period.
- d. In no case shall the standard buffer width be reduced by more than fifty percent, or the buffer width be less than fifty feet, whichever is greater, unless the applicant demonstrates an acceptable reasonable use as described in Section 16.10.120.
- e. Isolated Category 3 and 4 wetlands less than 1,000 square feet may be exempt from the buffer provisions contained in this Chapter and the normal mitigation sequencing process. They may be displaced if impacts are fully mitigated. Such wetlands:
  - i. Are not associated with riparian areas or buffers.
  - ii. Are not part of a wetland mosaic.
  - iii. Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

**Section 5.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.20.050 and Prosser Municipal Code Section 16.20.050 are both hereby amended and reenacted to read as follows:

**16.20.050 Performance standards—Mitigation requirements.**

- A. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions and shall be consistent with the Department of Ecology “Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals,” 1994, as revised.
- B. Mitigation Shall Result in No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area except when the following criteria are met:
  - 1. The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment using Department of Ecology “Methods for Assessing Wetland Functions, Volume 2, Depressional Wetlands in the Columbia Basin of Eastern Washington, Parts 1 and 2,” December 2000; or
  - 2. The lost wetland area provides minimal functions as determined by a site-specific function assessment and other protected or enhanced habitats provide greater benefits to the functioning of the watershed, such as riparian habitat protection and enhancement.
- C. Mitigation for Lost Functions and Values. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment protocol; or
  2. Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.
- D. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:
1. Restoring wetlands on upland sites that were formerly wetlands.
  2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.
  3. Enhancing significantly degraded wetlands.
  4. Preserving high-quality wetlands that are under imminent threat.
- E. Type and Location of Mitigation. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when the following apply:
1. There are no reasonable on-site opportunities or on-site opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or connectivity are inadequate;
  2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
  3. Off-site locations shall be in the same subdrainage basin and the same water resource inventory area (WRIA) unless:
    - a. The impact is located near the boundary of a WRIA;
    - b. Established regional or watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or
    - c. Credits from a state-certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.
- F. Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

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

G. Mitigation Ratios.

1. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank’s certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

<b>Wetland Mitigation Ratios</b>				
<b>Category and Type of Wetland</b>	<b>Creation or Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement</b>	<b>Preservation</b>
Category I: Bog, Natural Heritage Site	Not considered possible	6:1	Case by case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on Functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

Note: Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

2. Increased Replacement Ratio. The city may increase the ratios under the following circumstances:
  - a. Uncertainty exists as to the probable success of the proposed restoration or creation; or

- b. A significant period of time will elapse between impact and replication of wetland functions; or
  - c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
  - d. The impact was an unauthorized impact.
3. Decreased Replacement Ratio. The city may decrease these ratios under the following circumstances:
- a. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high likelihood of success;
  - b. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or
  - c. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
4. Minimum Replacement Ratio. In all cases, a minimum acreage replacement ratio of one-to-one shall be required.

H. Wetland Mitigation Banks.

- 1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
  - a. The bank is certified under Chapter 173-700 WAC;
  - b. The city determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
  - c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.
- 2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
- 3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one water resource inventory area (WRIA) for specific wetland functions.

I. Wetlands Enhancement as Mitigation.

- 1. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection G of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.

J. Wetland Preservation as Mitigation. Impacts to wetlands may be mitigated by preservation of wetland areas when used in combination with other forms of mitigation such as creation, restoration, or enhancement at the preservation site or at a separate location. Preservation may also be used by itself, but more restrictions, as outlined below, will apply.

1. Preservation in Combination with Other Forms of Compensation. Preservation as mitigation is acceptable when done in combination with restoration, creation, or enhancement; providing, that a minimum of one-to-one acreage replacement is provided by restoration or creation and the criteria below are met.
  - a. The impact area is small and/or impacts are to a Category III or IV wetland;
  - b. Preservation of a high-quality system occurs in the same water resource inventory area (WRIA) or watershed basin as the wetland impact; and
  - c. Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
2. Preservation as the Sole Means of Mitigation for Wetland Impacts. Preservation of at-risk, high-quality habitat may be considered as the sole means of mitigation for wetland impacts when all of the following criteria are met:
  - a. Preservation is used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied;
  - b. Creation, restoration, and enhancement opportunities have also been considered, and preservation is the best mitigation option;
  - c. The impact area is small and/or impacts are to a Category III or IV wetland;
  - d. Preservation of a high-quality system occurs in the same water resource inventory area (WRIA) or a watershed where the wetland impact occurs;
  - e. Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation;
  - f. The preservation site is determined to be under imminent threat, specifically, sites with the potential to experience a high rate of undesirable ecological change due to on-site or off-site activities (“potential” includes permitted, planned, or perceived actions); and
  - g. The area proposed for preservation is of high quality and critical for the health of the watershed or basin. Some of the following features may be indicative of high-quality sites:
    - i. Category I or II wetland rating;
    - ii. Rare wetland type (for example, bogs, estuaries);

- iii. Habitat for threatened or endangered species;
  - iv. Wetland type that is rare in the area;
  - v. Provides biological and/or hydrological connectivity;
  - vi. High regional or watershed importance (for example, listed as priority site in watershed plan); and
  - vii. Large size with high species diversity (plants and/or animals) and/or high abundance.
3. Mitigation Ratios for Preservation as the Sole Means of Mitigation. Mitigation ratios for preservation as the sole means of mitigation shall range from seven-to-one to twenty-to-one, as determined by the city, depending on the quality of wetlands being mitigated and the quality of the wetlands being preserved.

K. Mitigation Maintenance and Monitoring. Mitigation areas will be maintained and monitored for a minimum of five years after the mitigation has been completed. Annual maintenance and monitoring reports will be submitted to the city and shall include:

- 1. Descriptive data for vegetation, soils, and hydrology;
- 2. Itemized list of dead, dying, and replaced vegetation;
- 3. Quantitative assessment of invasive species;
- 4. Descriptive photographs;
- 5. Statement of overall success of mitigation;
- 6. Schedule of activities for the next year of maintenance and monitoring.

The city may extend maintenance and monitoring for mitigation projects that fail to achieve performance standards outlined in the mitigation plan. An example of a performance failure is less than eighty percent survival of native vegetation or more than ten percent of the mitigation area cover with nonnative invasive species.

**Section 6.** That portion of Section 3 of Ordinance Number 03-2417 that enacted Prosser Municipal Code Section 16.60.040 and Prosser Municipal Code Section 16.60.040 are both hereby amended and reenacted to read as follows:

**16.60.040 Performance standards—Specific habitats.**

- A. Endangered, Threatened, and Sensitive Species.
- 1. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.
  - 2. Whenever activities are proposed adjacent to a habitat conservation area with which

state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a report prepared by a qualified professional and submitted to the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Department of Fish and Wildlife and the appropriate federal agency.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within eight hundred feet, or within a quarter mile (two thousand six hundred forty feet) and in a shoreline foraging area. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Department of Fish and Wildlife.

B. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland development performance standards set forth in Chapter 16.20, in addition to meeting the habitat conservation area standards in this chapter.

C. Riparian Habitat Areas. Unless otherwise allowed in this title, all structures and activities shall be located outside of the riparian habitat area.

1. Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic systems.
2. Riparian Habitat Area Widths. Recommended riparian habitat area widths are shown in the table below. A riparian habitat area shall have the width recommended, unless a greater width is required pursuant to subsection (C)(3) of this Section, or a lesser width is allowed pursuant to subsection (C)(4) of this Section. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. Riparian areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of in-stream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

<b>Riparian Habitat Areas</b>	
Stream Type	Recommended RHA Widths <sup>1</sup>
Types 1 and 2—Shorelines of statewide significance (Yakima River)	200 feet
Where specific reach-based buffers are adopted in Title 16.04 Shoreline Management, the	

reach-based buffers may be employed in lieu of the above.	
Type 3 or other perennial or fish-bearing streams	75 feet
Types 4 and 5	50 feet

3. Increased Riparian Habitat Area Widths. The recommended riparian habitat area widths shall be increased in the following cases:
  - a. When the city determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
  - b. When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
  - c. When the channel migration zone exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the channel migration zone;
  - d. When the habitat area is in an area of high blowdown potential, the riparian habitat area shall be expanded an additional fifty feet on the windward side;<sup>2</sup> or
  - e. When the habitat area is within an erosion or landslide hazard area or buffer, the riparian habitat area shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
  
4. Riparian Habitat Area Width Averaging. The city may allow the recommended riparian habitat area width to be reduced in accordance with a report only if:
  - a. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;
  - b. The width reduction will not degrade the habitat;
  - c. The proposal will provide additional habitat protection;
  - d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
  - e. The recommended riparian habitat area width is not reduced by more than fifty percent in any one location;
  - f. The recommended riparian habitat area width is not reduced to less than fifty feet;
  - g. The width reduction will not be located within another critical area or associated buffer;
  - h. The reduced riparian habitat area width is supported by best available science;
  - i. All undeveloped lands within total area will be left undeveloped in perpetuity by covenant, deed restriction, easement or other legally binding mechanism;
  - j. The buffer averaging plan shall be conducted in consultation with a qualified

biologist and the plan shall be submitted to the Washington Department of Fish and Wildlife for comment;

- k. The director shall use the recommendations of the qualified experts in making his/her decision on a plan that uses buffer averaging.
5. Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values, on a per function basis, and be located in the same subdrainage basin as the habitat impacted.
6. Alternative Mitigation for Riparian Habitat Areas. The requirements set forth in this section may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

D. Riparian Habitat Areas, Ponds, Lakes, and Waters of the State.<sup>3</sup> The following specific activities may be permitted within riparian habitat areas, ponds, lakes, waters of the state, or associated buffers when the activities comply with the provisions set forth in applicable city regulations and subject to the following standards:

1. Clearing and Grading. When clearing and grading are permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:
  - a. Grading is allowed only when soil conditions are dry and the potential for erosion is low.
  - b. Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.
  - c. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.
  - d. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
  - e. Erosion and sediment control that meets or exceeds the standards set forth in the adopted storm water management regulations shall be provided.
2. Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with a report that demonstrates the following:
  - a. Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one quarter mile of the project area.
  - b. The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.
  - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the proposed shoreline

erosion control measures.

3. Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with the report.
4. Launching Ramps—Public or Private. Launching ramps may be permitted in accordance with the report that has demonstrated the following:
  - a. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the site;
  - b. The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;
  - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the ramp.
5. Docks. Repair and maintenance of an existing dock or pier may be permitted in accordance with the report subject to the following:
  - a. There is no increase in the use of materials creating shade for predator species;
  - b. There is no expansion in overwater coverage;
  - c. There is no increase in the size and number of pilings; and
  - d. There is no use of toxic materials (such as creosote) that come in contact with the water.
6. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to thirty feet wide, may be permitted in accordance with the report subject to the following standards:
  - a. There is no other feasible alternative route with less impact on the environment;
  - b. The crossing minimizes interruption of downstream movement of wood and gravel;
  - c. Mitigation for impacts is provided pursuant to a mitigation plan of the report;
  - d. Road bridges are designed according to the Department of Fish and Wildlife “Fish Passage Design at Road Culverts,” March 1999, and the National Marine Fisheries Service “Guidelines for Salmonid Passage at Stream Crossings,” 2000; and
  - e. Trails and associated viewing platforms shall not be made of continuous impervious materials.
7. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with the report if they comply with the following standards:
  - a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
  - b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
  - c. The utilities shall cross at an angle greater than sixty degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring

- under the channel is not feasible;
- d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
  - e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
  - f. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.
8. **Public Flood Protection Measures.** New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review of a report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.
  9. **In-Stream Structures.** In-stream structures, such as, but not limited to, high flow bypasses, sediment ponds, in-stream ponds, retention and detention facilities, tide gates, dams, and weirs shall be allowed only as part of an approved watershed basin restoration project approved by the city and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.
  10. **Storm Water Conveyance Facilities.** Conveyance structures may be permitted in accordance with the report subject to the following standards:
    - a. No other feasible alternatives with less impact exist;
    - b. Mitigation for impacts is provided;
    - c. Storm water conveyance facilities shall incorporate fish habitat features; and
    - d. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.
  11. **On-Site Sewage Systems and Wells.**
    - a. New on-site sewage systems and individual wells may be permitted in accordance with the report only if accessory to an approved residential structure for which it is not feasible to connect to a public sanitary sewer system.
    - b. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:
      - i. Connection to an available public sanitary sewer system;
      - ii. Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the Benton County health department; or
      - iii. Repair to the existing on-site septic system.

E. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:
  - a. Activities shall be timed to occur only during the allowable work window as designated by the Department of Fish and Wildlife for the applicable species;
  - b. An alternative alignment or location for the activity is not feasible;
  - c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and
  - d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.
2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.
3. Fills may only intrude into water bodies used by anadromous fish when the applicant demonstrates that the fill is for a water-dependent use that is in the public interest and when the fill is consistent with other applicable regulations adopted by the city, including but not limited to permitting process construction standards, building code, shorelines management program, and environmental review (SEPA) procedures.

<sup>1</sup> Recommended riparian habitat widths are adapted from Department of Fish and Wildlife, 1997: "Management Recommendations for Washington's Priority Habitats: Riparian."

<sup>2</sup> See "Management Recommendations for Washington's Priority Habitats: Riparian" from the Washington Department of Fish and Wildlife.

<sup>3</sup>The performance standards for riparian habitat areas, ponds, lakes, waters of the state, and marine habitat are partially derived from the Pierce County "Draft Critical Areas Development Regulations," March 2002.

**Section 7.** The City Council hereby adopts the findings made by the Planning Commission on May 15, 2014, as the findings of the City Council in support of this ordinance.

**Section 8.** **SEVERABILITY.** The provisions of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of this ordinance shall not as a result of said section, sentence, clause, or phrase be held unconstitutional or invalid.

**Section 9.** Five days after publication of an approved summary of this ordinance consisting of its title, and after the date approved by the Washington State Department of Ecology pursuant to RCW 36.70.480(2) and RCW 90.58.090(1), whichever is later, this ordinance shall be in full force and effect.

**PASSED** by the City Council and **APPROVED** by the Mayor, this 24<sup>th</sup> day of June, 2014.

\_\_\_\_\_  
**MAYOR PAUL WARDEN**

ATTEST:

\_\_\_\_\_  
**CITY CLERK, RACHEL SHAW**

Approved as to form:



\_\_\_\_\_  
**CITY ATTORNEY, HOWARD SAXTON**

Date of Publication: \_\_\_\_\_

SUMMARY OF ORDINANCE NO. 14-\_\_\_\_\_

of the City of Prosser, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 2014, the City of Prosser, Washington, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE AMENDING PROSSER MUNICIPAL CODE SECTIONS 16.10.102, 16.10.130, 16.20.010, 16.20.040, 16.20.050, AND 16.60.040 OF THE CITIES CRITICAL AREAS ORDINANCE TO MAKE IS CONSISTENT WITH THE CITY'S SHORELINE MASTER PROGRAM. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.

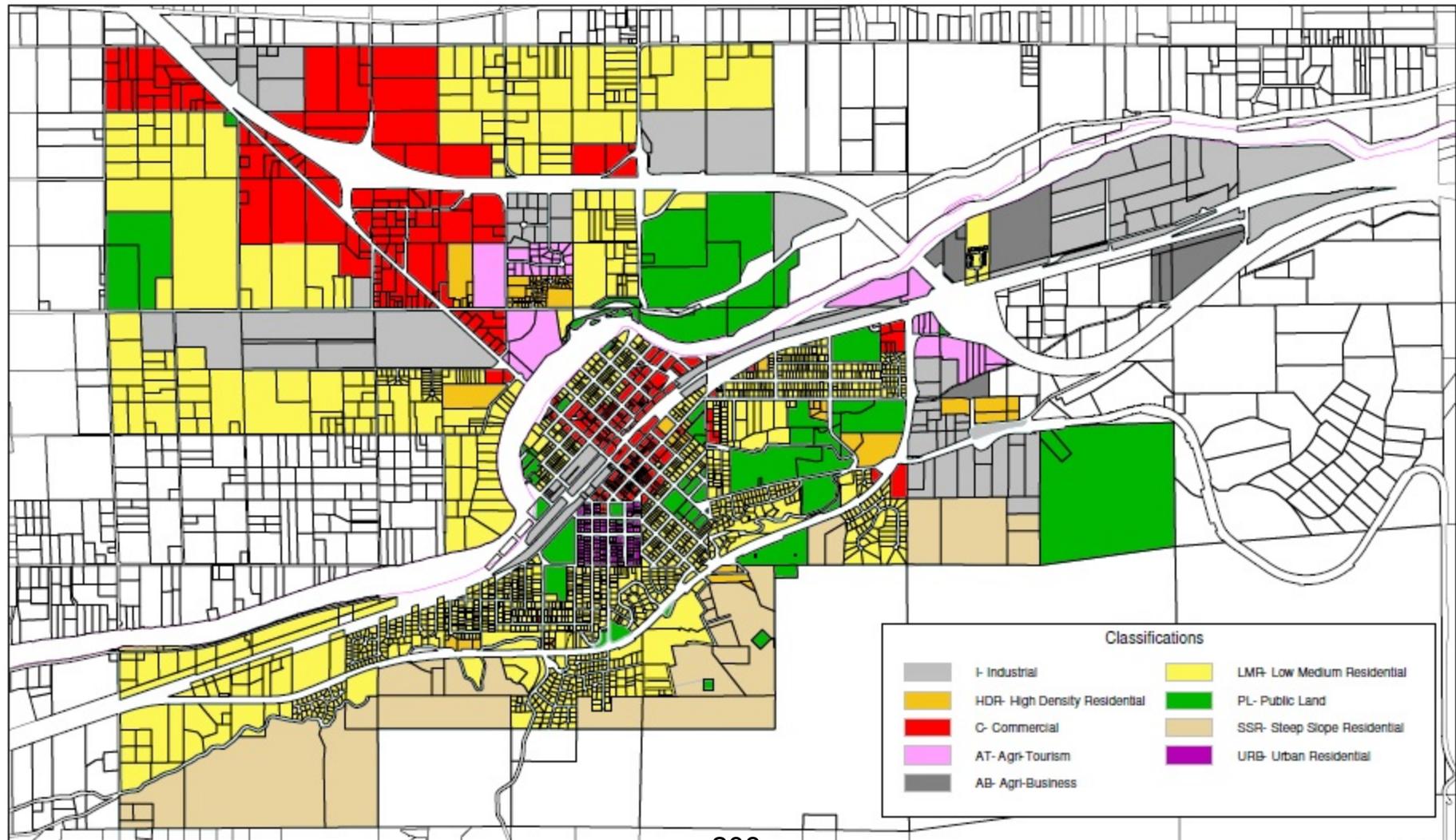
The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014

---

CITY CLERK, RACHEL SHAW

# City of Prosser Comprehensive Plan Land Use Map



The Planning Commission hereby adopts the following findings to support its recommendation that the City Council adopt, as drafted, the Ordinances updating the City's Shoreline Master Program, including the Comprehensive Plan, Shoreline Management regulations, and the Critical Areas regulations. These findings also support the recommendation to Council that it adopt the Land Use Map Changes as provided for below.

1. The City of Prosser last adopted a Comprehensive Plan, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, on April 5, 2011, by passage of Ordinance Number 11-2718.
2. In accordance with RCW 36.70A.130, an adopted Comprehensive Plan is subject to continuing evaluation and review, and amendments to the Comprehensive Plan shall be considered no more frequently than once every year. The Shoreline Management section of the Comprehensive Plan amendment is being adopted pursuant to the update of the City's Shoreline Master Program.
3. The City has provided for public participation in the development and review of the proposed amendments in accordance with its public participation plans through the City's Planning Commission and City Council. The city had two public participation plans: one for the Shoreline Master Program Update and one for the Land Use Map Amendment.
4. The City encouraged public participation and provided information on the Comprehensive Plan Amendment on its website (<http://www.cityofprosser.com>).
5. As a result of the City's efforts, the public has had extensive opportunities to participate throughout the Comprehensive Plan amendment process and all persons desiring to comment on the proposed amendments were given a full and complete opportunity to be heard.
6. On February 20, 2014, the Planning Commission recommended that the City Council approve the Comprehensive Plan, in the form to be filed by the Planning Department with the City Clerk on May 16, 2014.
7. The Comprehensive Plan filed with the City Clerk on June 19, 2014, by the planning department complies with requirements of the Growth Management Act, addresses all of the goals and requirements set forth in the Growth Management Act, and will protect and promote the health, safety and welfare of the general public.
8. The City Council will hold a public hearing and will take public testimony regarding the Comprehensive Plan Amendments, in accordance with PMC 19.01.040.
9. The Planning Commission followed the process for Comprehensive Plan Amendments provided for in Prosser Municipal Code (PMC) Chapter 19.01.
10. There was no public testimony on the SMP update.
11. The following provided oral testimony at one or more of the hearings on the update to the

Land Use Map: Mike Mortimore, Rory Calhoon, Susana Hermosillo, Ancencion Hermosillo, Alicia V. Ramirez, John Gibbons, Florence Mortimore, Stacy Dial, Ben Fesko, Francesca Santos, Roger Meyers, and Judy Brulotte.

12. The following submitted written materials regarding the SMP update: Washington State Department of Ecology.

13. The following submitted written materials regarding the Land Use Map update: Lou Hamilton, Ben Fesko, Michael Mortimore, Judy Brulotte and a Petition signed by the following: Michael Mortimore, Florence Mortimore, Benjamin Fesko, Francesca Santos, Roger Meyers, Alma Delia Garcia, Richard Trimble, Rory Calhoon, Julie Trimble, Richard Trimble, Kayla (undecipherable), Andrew Dial, Stacy Dial, Lou Hamilton, Judy Brulotte, and (undecipherable) de Rivera.

14. The Planning Commission held a workshop on the Comprehensive Plan on August 15, 2013, and held public hearings on the following dates: September 19, 2013, October 17, 2013, November 21, 2013, December 12, 2013, and February 20, 2014.

15. The Planning Commission held workshops on the Shoreline Master Program update on the following dates: November 15, 2012, December 6, 2012, March 21, 2013, May 16, 2013, September 19, 2013, October 17, 2013, November 21, 2013, and December 12, 2013.

16. The Planning Commission held a public hearing on the Shoreline Master Program update on February 20, 2014.

17. The City published notices of all public hearings in the Prosser Record Bulletin and provided additional notice as follows: notice by mail to parties whose properties were affected by the amendments to the Land Use Map; and by notice to all parties who signed in to participate at any previous hearing.

18. All notices required by RCW 36.70A.020 and the Prosser Municipal Code have been provided to interested parties.

19. All Comprehensive Plan Amendments and all text amendments are legislative actions pursuant to Prosser Municipal Code (PMC) 19.01.040 and .060.

20. The amendments to the Comprehensive Plan and SMP are consistent with the goals, policies, and requirements of the Growth Management Act (GMA) and the Shoreline Management Act. The Comprehensive Plan will continue to promote the planning goals of the GMA. No conflict with the final Comprehensive Plan and the Benton County Countywide planning goals was noted. The amendments are consistent with the City's Public Participation Plans. The plan and the Land Use Map (LUM) adopted within it are consistent with each other.

21. The City submitted the Comprehensive Plan Land Use Amendments for sixty-day review by the State on January 9, 2014.

22. The City submitted the Shoreline Master Program, including the Comprehensive Plan Shoreline Management changes to the Washington State Department of Commerce for sixty-day review on March 17, 2014.
23. The Comprehensive Plan amendments are consistent with RCW 36.70A.070 and RCW Chapter 90.58 (SMA) and WAC Chapter 173-26.
24. The State of Washington in accordance with RCW Chapter 90.58 and WAC 173-26 of the Revised Code of Washington (RCW) has mandated that the City of Prosser update the Prosser Shoreline Master Program (SMP).
25. The City of Prosser's SMP was originally adopted in 1973, and minor updates were made in 1974, 1975, and 1981.
26. On July 10, 2012, the City contracted with Anchor QEA to develop the City's SMP update which was paid for with a grant from the State Department of Ecology (DOE).
27. Before approval of the SMP, the Director of DOE must formally conclude that the proposed SMP update, when implemented over its planning horizon, typically 20 years, will result in "no net loss of ecological functions necessary to sustain shoreline natural function."
28. Anchor QEA conducted a Cumulative Impact Analysis of the SMP update and concluded that it would have either no net loss or a net improvement of shoreline function within the City of Prosser.
29. The Prosser Planning Commission held a public hearing on February 20, 2014, and made a recommendation on that date to the City Council to approve the proposed SMP update including changes to the Comprehensive Plan, Critical Areas Ordinance, and to the Shoreline Regulations.
30. The City Council reviewed the proposed SMP update at a work session on March 4, 2014, and held a public hearing on March 11, 2014. On March 11, 2014, the City Council approved resolution Number 14-1446 authorizing administration to submit the Shoreline Master Program to the Washington State Department of Ecology for review.
31. The SMP was submitted to Ecology for initial review on March 17, 2014.
32. The Washington State Department of Ecology has not made any comments on the City's Shoreline Master Program update after March 17, 2014.
33. The SMP encourages development of water oriented uses, but due to the lack of commercial navigability of the Yakima River, other uses are allowed.
34. The SMP encourages public access to shorelines through private ownership allowing public access, dedication to the public of access easements to the State-owned shorelines, or by providing for visual access where physical access may be dangerous or inconsistent with the

adjacent use. The program provides for a trail system parallel to the Yakima River, where feasible. Public access, in this context, means the ability of citizens to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

35. The SMP through its shoreline restoration plan and the provisions of Prosser Municipal Code Chapters 16.04, 16.10, 16.20, and 16.60 will ensure that no net loss of ecological function of the Yakima River and its shorelines will occur due to development.

36. Pursuant to the SMA, at RCW 90.58.050, the City of Prosser and the State Department of Ecology share joint authority and responsibility for the administration of the City of Prosser SMP. Because the City's SMP is approved by the State Department of Ecology, it has the authority of State Law.

37. The comprehensive update of the City of Prosser SMP consisting of Goals and Policies set forth in the Comprehensive Plan, Shoreline Designation Maps, Shoreline Restoration Plan, and amended Prosser Municipal Code Chapters 16.04, 16.10, 16.20, and 16.60 meets the State Requirements as well as accurately reflects circumstance present in the City of Prosser and within its Urban Growth Area.

38. The City Council may make additional findings after final Washington State Department of Ecology approval.

39. The following amendments are made to the Comprehensive Plan and Land Use Map (LUM) designations for the following reasons:

**Amendment # 1**

**Proposed Amendment:**

LUM change from Industrial (I) to Low Medium Residential (LMR). This area is 58.86 acres and consists of 17 tax parcels most of which are in use as single family homes. It is located North of I-82 and South of Johnson Road. The area to the South of this area is currently designated as Commercial (C).

**Rationale:**

The increased number of residential uses in the area has rendered it unsuitable for industrial development. In addition, the subdivision of lots in the area has resulted in many small lots that are not suitable for industrial development.

**Recommendation:**

On February 20, 2014, the Planning Commission recommended approval of this amendment.

**Amendment # 2**

**Proposed Amendment:**

LUM change from Public Lands (P) to Industrial (I). This area is the northeastern portion of the City-owned sprayfield. It consists of 22.29 acres and is adjacent to Interstate 82.

**Rationale:**

This change to Industrial (I) will partially make up the loss of 58.86 acres of Industrial (I) designated lands caused by Amendment Number 1 above and Number 3 (80 acres) below. Because of the proximity to the Freeway, this land is ideally suited for industrial development and such development will mitigate the impacts caused by the Freeway.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 3**

**Proposed Amendment:**

LUM change from Industrial (I) to Commercial (C). This area is 80 acres divided into 6 parcels along Gap Road north of the Freeway and the southern portion is directly adjacent to the Freeway interchange with Gap Road.

**Rationale:**

As evidenced by the commercial development of the area directly south of this interchange, this area is also likely to develop with commercial uses if designated

Commercial (C). The current designation as Industrial (I) would not be the highest and best use of this property.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 4**

**Proposed Amendment:**

LUM change from Steep Slope Residential (SSR) to Public Lands (P). This area is one acre and is one tax parcel. It is owned by the City and is owned by the City's water utility.

**Rationale:**

Since this property is owned by the City's water utility, it is improperly designated as Steep Slope Residential (SSR) which is intended as an area for residential development. Since the City is prohibited from engaging in residential development (outside of a housing authority), this property is improperly designated for residential uses. The city has no plans to use or sell the property for use as a housing project.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 5:**

**Proposed Amendment:**

LUM change from High Density Residential (HDR) to Commercial (C). This property is one tax parcel and is 2.58 acres. It is located on the northerly corner of the Intersection of

Wine Country Road and OIE.

**Rationale:**

The current designation is a mapping error that must be corrected. All lands along Wine Country Road North of Wamba Road are required to be zoned Commercial Thoroughfare. In order to properly zone this property, the land use designation needs to be changed to Commercial (C).

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

**Amendment # 6**

**Proposed Amendment:**

LUM change from Low Medium Density Residential (LMR) to Public Lands (PL) for the lot along Wine Country Road owned by the City water utility and containing the City's new water tower.

**Rationale:**

Since this property is owned by the City's water utility, it is improperly designated as Low Medium Density Residential (LMR) which is intended as an area for residential development. Since the City is prohibited from engaging in residential development (outside of a housing authority), this property is improperly designated. The city has no plans to use or sell the property for use as a housing project.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

## **Amendment # 7**

### **Proposed Amendment:**

Adding new language to the Shoreline Management section of the Plan to make it consistent with the new Shoreline Management Program and Critical Areas Ordinance being adopted concurrently with this Ordinance. The amendment adds a summary statement to the Plan and adopts the following new goals (underlying policies supporting the goals are also set forth in the plan):

1. Goal SH1 Shoreline Use Element. Ensure appropriate conservation and development of the City of Prosser's shorelines by allowing those uses which are water-dependent, as well as other development which provides an opportunity for a substantial number of people to enjoy the shorelines. This should be done in a manner which will achieve an orderly balance of shoreline uses that improves the quality of the environment.
2. Goal SH 2 Shoreline Economic Development Element. Give priority to those industrial, commercial, and recreational developments that are particularly dependent on their location on the City of Prosser's shoreline. Encourage development that will provide the public with an opportunity to enjoy the shorelines. No net loss of ecological function is envisioned in the implementation of this goal.
3. Goal SH 3 Shoreline Economic Development Element. Develop safe, convenient, and diversified shoreline circulation systems to assure efficient movement of goods and people with minimum disruptions to the shoreline environment and minimum conflict between the different users.

4. Goal SH 4 Restoration and Conservation Element. Assure protection, preservation, and restoration of City of Prosser's, fragile and scenic nonrenewable resources, while encouraging the best management practices to assure no net loss of shoreline ecological functions.
5. Goal SH 5 Public Access Element. Ensure safe, convenient, and diversified access for the public to the publicly-owned shorelines of the City of Prosser and assure that the intrusions created by public access will recognize the rights of private property owners, and will not adversely affect fragile natural areas.
6. Goal SH 6 Goal: Recreational Element. Provide additional opportunities for diverse forms of public recreation and improvement of present facilities.
7. Goal SH 7 Historical/Cultural Element. Protect, preserve, and encourage restoration of those sites and areas on the shoreline which have significant historical, cultural, educational, or scientific value.
8. Goal SH 8 Flood Hazard Element. To minimize flood hazards to human life and to property while enhancing the ecological processes of the shoreline.

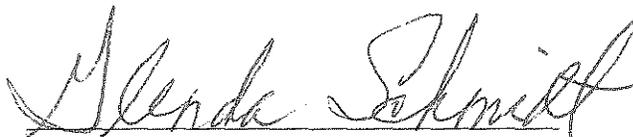
**Rationale:**

The new language regarding Shoreline Management is being adopted pursuant to the adoption of the new Shoreline Management Program.

**Recommendation:**

The Planning Commission recommended on February 20, 2014, that this amendment be approved.

Dated: 6-19-14

  
Chair



---

Secretary

C:\Users\howard\AppData\Roaming\Microsoft\Templates\Normal.dotm

CITY OF PROSSER, WASHINGTON			
<b>AGENDA BILL</b>			
<b>Agenda Title:</b> Public Hearing to Receive Citizen Comment on Proposed Ordinance 14-_____ Modifying the City of Prosser Comprehensive Plan and Land Use Map.		<b>Meeting Date:</b> May 27, 2014 Regular Meeting	
<b>Department:</b> Planning	<b>Director:</b> Steve Zetz	<b>Contact Person:</b> Steve Zetz	<b>Phone Number:</b> (509) 786-8212
<b>Cost of Proposal:</b> N/A		<b>Account Number:</b>  _____	
<b>Amount Budgeted:</b> N/A		<b>Name and Fund#</b>  _____	
<b>Reviewed by Finance Department:</b> N/A			
<b>Attachments to Agenda Packet Item:</b> <ol style="list-style-type: none"> <li>1. Public Hearing Notice</li> <li>2. Comprehensive Plan Proposed Changes Summary Report</li> <li>3. Department of Commerce Letter January 9, 2014</li> <li>4. Department of Ecology Letter January 28, 2014</li> <li>5. Application</li> <li>6. Notice of Application</li> <li>7. SEPA Checklist</li> <li>8. Proposed Ordinance 14-_____</li> <li>9. Proposed Land Use Map</li> <li>10. Comprehensive Plan</li> </ol>			
<b>Summary Statement:</b> <p>Please see attached summary report. The Comprehensive Plan update also includes an amendment to the Section titled "Shoreline Management." That section has been amended to include the following new goals:</p> <ol style="list-style-type: none"> <li>1. Goal SH1 Shoreline Use Element. Ensure appropriate conservation and development of the City of Prosser's shorelines by allowing those uses which are water-dependent, as well as other development which provides an opportunity for a substantial number of people to enjoy the shorelines. This should be done in a manner which will achieve an orderly balance of shoreline uses that improves the quality of the environment.</li> <li>2. Goal SH 2 Shoreline Economic Development Element. Give priority to those industrial, commercial, and recreational developments that are particularly dependent on their location on the City of Prosser's shoreline. Encourage development that will provide the public with an opportunity to enjoy the shorelines. No net loss of ecological function is envisioned in the implementation of this goal.</li> </ol>			

3. Goal SH 3 Shoreline Economic Development Element. Develop safe, convenient, and diversified shoreline circulation systems to assure efficient movement of goods and people with minimum disruptions to the shoreline environment and minimum conflict between the different users.
4. Goal SH 4 Restoration and Conservation Element. Assure protection, preservation, and restoration of City of Prosser's, fragile and scenic nonrenewable resources, while encouraging the best management practices to assure no net loss of shoreline ecological functions.
5. Goal SH 5 Public Access Element. Ensure safe, convenient, and diversified access for the public to the publicly-owned shorelines of the City of Prosser and assure that the intrusions created by public access will recognize the rights of private property owners, and will not adversely affect fragile natural areas.
6. Goal SH 6 Goal: Recreational Element. Provide additional opportunities for diverse forms of public recreation and improvement of present facilities.
7. Goal SH 7 Historical/Cultural Element. Protect, preserve, and encourage restoration of those sites and areas on the shoreline which have significant historical, cultural, educational, or scientific value.
8. Goal SH 8 Flood Hazard Element. To minimize flood hazards to human life and to property while enhancing the ecological processes of the shoreline.

New policies are also adopted to implement the goals. The policies may be reviewed in the Comprehensive Plan starting on page 54. These goals and policies must be adopted in accordance with the mandate contained in WAC 173-26-176 and the RCW's referenced therein.

Consistent with or Comparison to:

EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL

Recommended City Council Action/Suggested Motion:

Move to continue Public Hearing to June 24, 2014, Prosser City Council Meeting at 7:00 p.m.

Review SMP and SMP Ordinances.

Reviewed by Department Director:



Date:

Reviewed by City Attorney:



Date:

5/20/14

Approved by Mayor:



Date:

5-23-14