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**HOUSE BILL 1838**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Lekanoff, Fitzgibbon, Bateman, Berry, Macri, Ramel, Simmons, Pollet, and Harris-Talley; by request of Office of the Governor

AN ACT Relating to protecting, restoring, and maintaining habitat for salmon recovery; amending RCW 77.85.160, 36.70A.020, 36.70A.030, 36.70A.172, and 77.55.231; adding a new section to chapter 77.85 RCW; adding a new section to chapter 36.70A RCW; adding a new section to chapter 90.58 RCW; adding a new section to chapter 43.06 RCW; adding a new chapter to Title 77 RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**PART 1**

**LEGISLATIVE INTENT**

NEW SECTION. **Sec.**  This act shall be known and cited as the Lorraine Loomis act.

NEW SECTION. **Sec.**  (1) The legislature finds that riparian areas are the fulcrum for the cycle of life of aquatic species and many terrestrial wildlife species and that the health of all Washingtonians depends upon healthy riparian areas. These areas provide multibenefit ecosystem services such as water purification, water storage, large woody debris, flood protection, critical fish and wildlife migration, food supply and foraging, and in-stream and terrestrial cover habitats, and fisheries and, by interacting with watershed-scale processes, they contribute to the creation and maintenance of aquatic habitats. The zone of influence for the health of riparian ecosystems encompasses the active floodplain, including riverine wetlands and terraces, and the adjacent uplands that contribute matter and energy to the active channel or active floodplain. Scientists, including those who developed the Washington state department of fish and wildlife's *Riparian Ecosystems Volume 1 and 2*, which is accepted as the best available science in Washington state, estimate the width of a properly functioning riparian ecosystem for most streams and rivers in the state to be site potential tree height, and that protecting and restoring the conditions within this area is necessary to protect and maintain the full, healthy function of the riparian ecosystem.

(2) The legislature further finds that salmon are an indicator species dependent upon fully functioning, healthy riparian areas, and as wild salmon decline, it foretells the decline of the water quality and all other species in our aquatic systems. Salmon play a major role in our state's wildlife diversity and cultural heritage. Salmon are the keystone species to 137 other animals, including orcas and bears. Bold reforms and strategies that encompass solutions to many, if not all, of the causes behind salmon depletion are needed. Protecting our salmon is a priority for all Washingtonians.

(3) The legislature further finds that for thousands of years salmon have shaped the lives of the people who have lived here since time immemorial. Native nations of the Pacific Northwest define themselves as salmon people. The cultures, intertribal interactions, fishing technologies and negotiations, and the very spiritual ways of the Pacific Northwest tribes were and are all impacted and influenced by salmon. These lifeways have been at risk for some time and urgent action is required. As Billy Frank Jr. said almost 20 years ago, "As the salmon disappear, so do our cultures and treaty rights. We are at a crossroads and we are running out of time." And, in the words of Swinomish elder, Billy Frank Jr.'s close friend and true salmon warrior, Lorraine Loomis, "Salmon is food for our bodies and our spirits. For us, salmon is not optional. It is essential." "None of us tribal natural resources managers are working for today. We are all working for tomorrow. We are working to make certain there will be salmon for the next seven generations." Northwest Indian fisheries commission chair Loomis was the key to the development and implementation of the vitally important natural resource management process and kept the protection and restoration of critical habitat at the forefront of those efforts.

(4) The legislature further finds that the effects of climate change on these special habitats and ecosystem services will be especially profound, due to altered snowpack and hydrologic regimes that are already occurring, and negative impacts are predicted to increase over time. Warming weather due to climate change has vastly increased the temperature of freshwater streams, making salmon more susceptible to predators, parasites, disease, and mortality. The functionality of many riparian ecosystems is already compromised by water diversions, agricultural and livestock practices, development, and population growth, all of which reduce the salmon's resilience to additional stresses that warmer water and a warmer climate brings. Over the next century, climate change will dramatically alter natural resource management. Because riparian ecosystems and the projected impacts of climate change are highly variable geographically, there is an urgent need to take place-based actions to respond to the impacts and threats of climate change to salmon.

(5) While the federal, state, and local governments and tribes must continue the important work of addressing all activities limiting the recovery of wild salmon, without protecting and restoring riparian habitat and watershed functions necessary for their survival, there is no reasonable prospect of achieving such a recovery.

(6) For these reasons, the legislature intends to act now, with needed urgency, to establish and implement a comprehensive program to protect and restore riparian habitat upon which salmon and other aquatic species depend by:

(a) Requiring the riparian management zone standard in defining the areas in which riparian functions must be protected and restored, and applying this statewide standard to state and local land use planning, permitting and incentive programs, water quality protection, enforcement of regulatory programs, and financial and technical assistance programs;

(b) Requiring inclusion and integration of salmon recovery goals, strategies, and actions in all elements of comprehensive plans including, but not limited to, land use plans, capital facilities plans, development regulations, and shoreline master programs;

(c) Adopting more protective standards applicable to shoreline armoring;

(d) Establishing financial incentives for restoration of riparian and shoreline habitats;

(e) Providing liability protection for permitting of habitat restoration work;

(f) Requiring mapping, monitoring, and regular review and assessment of watershed functions including riparian habitat in all watersheds;

(g) Increasing state funding of habitat restoration and protection projects, planning, and program implementation; and

(h) Increasing state resources devoted to habitat and water quality monitoring and enforcement, with the priority placed upon watersheds failing to meet progress goals in habitat protection and restoration.

**PART 2**

**RIPARIAN MANAGEMENT ZONES**

NEW SECTION. **Sec.**  (1) It is the policy of the state to protect, restore, and maintain properly functioning riparian management zones and ecosystems to aid in recovering threatened and endangered salmon to abundant harvestable levels, prevent new listings of salmon populations as threatened or endangered, prevent extirpation of remaining salmon populations, and restore and protect water quality.

(2) The restoration and permanent protection of riparian management zones and ecosystems must occur at a significantly increased pace sufficient to address declining salmon populations, protect critical habitat for salmon and steelhead, protect and restore water quality, and prevent long-term impacts to the economy and well-being of Washington state.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of fish and wildlife.

(2) "Riparian function" means the ecosystem services provided by a riparian management zone including, but not limited to, water quality and quantity protection, pollution filtration, flood protection and storage, critical fish and wildlife migration, food supply and foraging, and in-stream and terrestrial cover habitats.

(3) "Riparian management zone" means riparian management zone as defined in *Riparian Ecosystems Volume 2* published December 2020 by the department.

(4) "Riparian management zone map" means a map of a watershed established by the department that identifies the riparian management zone along salmon and steelhead bearing streams and rivers necessary to support riparian function.

(5) "Site class" means site class as defined in *Riparian Ecosystems Volume 2* published December 2020 by the department.

NEW SECTION. **Sec.**  (1) Except as provided in section 204 of this act, public and private landowners owning property adjacent to a water body identified and mapped on a riparian management zone map must establish, maintain, and protect a riparian management zone to achieve the goals of this chapter.

(2) Upon request by a landowner or authorized agency or operator of a landowner, the department may issue a validation of compliance with the requirements of this section. The department's validation may be appealed to the pollution control hearings board pursuant to RCW 43.21B.110.

(3) Nothing in this section limits the eligibility of a landowner or authorized agent or operator of a landowner to participate in federal or state conservation programs, including enrolling or reenrolling in federal conservation programs.

(4) A person replanting a riparian management zone to meet the requirements of this section may not use plants listed as noxious weeds by the noxious weed control board pursuant to chapter 17.10 RCW or an invasive plant species listed by the Washington invasive species council created under RCW 79A.25.310.

NEW SECTION. **Sec.**  Land adjacent to waters is exempt from requirements under this chapter if it is:

(1) Enrolled in the federal conservation reserve enhancement program that establishes a riparian management zone;

(2) Legally permitted and used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented structures as provided in the shoreline master program pursuant to chapter 90.58 RCW;

(3) Covered by a road, trail, building, or other structure that exists at the time of the effective date of this section;

(4) Regulated by a national pollutant discharge elimination system permit and requires a riparian management zone;

(5) Regulated by the forest practices act pursuant to chapter 76.09 RCW; or

(6) A small parcel in which the riparian management zone would cover more than 50 percent of the parcel. Any reduction in the size of the riparian management zone must maximize riparian functions to the greatest extent practicable and take into consideration opportunities for cost share. Reductions may not be granted for parcels determined to be small as a result of subdivision after the effective date of this section.

NEW SECTION. **Sec.**  (1) The department shall develop a map that illustrates the riparian management zone for salmon and steelhead bearing rivers and streams for each watershed as defined in chapter 90.82 RCW. The maps must be developed in consultation with federally recognized tribes and in coordination with regional salmon recovery organizations established in chapter 77.85 RCW. The map must be publicly available on a web-based application. The riparian management zone map must include all streams, rivers, and floodplains that support salmon and steelhead recovery, including those in undeveloped urban growth areas designated under chapter 36.70A RCW. The inclusion of tribal lands in a riparian management zone map may only occur upon permission of the tribe to include their lands.

(2) The department must prioritize watersheds in need of riparian management zone restoration to achieve riparian functions to recover and protect salmon and steelhead and to meet water quality standards based on the department of ecology's water quality assessments. Watershed priorities must be developed in consultation with federally recognized tribes, in coordination with the department of ecology, and input from regional salmon recovery organizations established in chapter 77.85 RCW.

(3) By June 30, 2023, the department must provide a riparian management zone map to each jurisdiction planning pursuant to RCW 36.70A.130 with a periodic update due June 30, 2024. The department shall provide subsequent riparian management zone maps to each jurisdiction on or before June 30th of the previous year prior to a local jurisdiction's periodic update. Counties and cities fully planning under RCW 36.70A.040 must include restoration and protection of riparian management zones pursuant to section 602 of this act.

(4) Within one year after the due date for adoption of a comprehensive plan update, the department, in consultation with federally recognized tribes, shall establish riparian restoration progress goals for the priority watersheds located within the area subject to the plan update.

(5) The department shall design and implement the work required by this chapter to achieve riparian management zones with healthy riparian functions in all priority watersheds of the state by December 31, 2032.

NEW SECTION. **Sec.**  (1) The department shall adopt rules and guidance to implement this chapter including, but not limited to:

(a) The application of the riparian management zone requirements and timelines;

(b) The process and criteria for reducing or exempting riparian management zone requirements for small parcels;

(c) Ensuring exceptions minimize loss of riparian function;

(d) The process and criteria for prioritization of watersheds; and

(e) The criteria to be used to establish progress goals for priority watersheds.

(2) Rules adopted by the department must address protection and restoration of the riparian management zone in different climate zones of the state, based on best available science.

**PART 3**

**FINANCIAL ASSISTANCE**

NEW SECTION. **Sec.**  A new section is added to chapter 77.85 RCW to read as follows:

(1) The salmon recovery funding board shall develop and implement a statewide riparian habitat conservation grant program to protect and restore riparian management zones and ecosystems and as an opportunity to cost share with landowners as described in section 302 of this act. The board may establish criteria for determining when block grants may be made for purposes of distributing funds to the highest priority watersheds based on the department's prioritization process.

(2) The riparian habitat conservation grant program must be funded with state or federal funds set aside explicitly for riparian habitat in the salmon recovery account under RCW 77.85.170. The riparian funds must be separate from state salmon recovery funding board or federal pacific coastal salmon recovery funds for lead entity salmon recovery projects. Riparian projects are eligible for funding under the riparian grant program where consistent with the department's riparian management zone maps and the department's best available science standards.

(3) The salmon recovery funding board, with input from the state/tribal riparian management oversight committee established in section 701 of this act, may prioritize funding for riparian restoration projects in watersheds prioritized in accordance with section 205 of this act and where progress goals established by the department have not been met.

(4) Funding may only be provided in watersheds in which riparian management zone maps are complete.

NEW SECTION. **Sec.**  (1) In priority watersheds, the department shall provide landowners with an offer of grant funding to assist in implementation of the requirements of this chapter. The cost-sharing offer may come from a state agency, board, office, or commission where the department determines that the offer meets the conditions of this section.

(2) A cost-share offer must cover at least 70 percent of the landowner's cost to establish and maintain the riparian management zone, or 90 percent of the landowner's cost if there is an economic hardship.

(3) A landowner's cost to establish and maintain a riparian management zone includes all of the following that apply:

(a) Costs to establish or enhance a riparian management zone or to provide temporary cover until a permanent riparian management zone is established. This may include costs for mulch, fertilizer, seed, seedling trees, and other necessary materials;

(b) The reasonable value of necessary labor, equipment, fencing, and supplies to establish the riparian management zone; and

(c) The reasonable value of necessary yearly maintenance costs, up to a maximum of five years.

(4) If a landowner must remove more than .5 acre of riparian land from agricultural production, the cost-share offer must include part of the cost of removing that land from production. The amount must be at least equal to the amount that would be offered under the conservation reserve enhancement program if the affected lands were enrolled in that program for 10 years, regardless of whether the lands are actually eligible for the conservation reserve enhancement program. This subsection does not apply unless the landowner agrees to keep the riparian management zone out of agricultural production in perpetuity.

(5) A grant from any public or private source, or combination of sources, may be counted as part of a cost-share grant under subsection (1) of this section. A loan is not a grant.

(6) Before making a determination of a bona fide offer of cost sharing to the landowner, the department must provide 30 days' notice in writing of their intent to make a determination of a bona fide offer under subsection (1) of this section.

(7) Nothing in this section limits the authority of a state agency, local government, or landowner to carry out its obligations under other federal, state, or local law.

**PART 4**

**ENFORCEMENT**

NEW SECTION. **Sec.**  (1) In watersheds prioritized pursuant to section 205 of this act, where progress goals established by the department have not been met, and where a cost-sharing offer has been made, the department shall take additional action to secure compliance with this chapter.

(2) If the department determines that a landowner is not in compliance with this chapter, the department must provide the landowner with a list of corrective actions needed to come into compliance and a practical timeline to meet the requirements.

(3) If the department determines that steps have been taken to fully resolve the noncompliance, all or part of corrective action must be deemed complete.

(4) Corrective action is not required for conditions resulting from a flood or other acts of nature.

(5) A landowner, landowner agent, or operator of a landowner may not conduct any activity that would remove or willfully degrade a riparian management zone, wholly or partially, unless the activity is consistent with the exceptions established in rule pursuant to section 206 of this act and the landowner has obtained the necessary permits to do so.

(6) If the landowner does not comply with the list of actions and timeline provided, the department shall pursue compliance and enforcement of this chapter and must notify the department of ecology.

NEW SECTION. **Sec.**  When, in the opinion of the department, after consultation with the department of ecology, any person violates the provisions of this chapter or rules adopted or issued under this chapter, the department must notify the person of its determination by registered mail. The determination does not constitute an order or directive under RCW 43.21B.310. Within 30 days from the receipt of notice of the determination, the person must file with the department a full report stating what steps have been and are being taken to establish and maintain a riparian management zone or to otherwise comply with the determination of the department. After receiving the report, the department must issue an order or directive as it deems appropriate under the circumstances and notify the person of the order by registered mail.

NEW SECTION. **Sec.**  (1) A person who violates this chapter or rules adopted under this chapter is subject to a penalty in an amount of up to $10,000 a day for each violation. This penalty is in addition to any other penalty provided under law. Each violation is a separate and distinct offense, and, in case of a continuing violation, every day's continuance is a separate and distinct violation.

(2) Any act of commission or omission that procures, aids, or abets in the violation of this chapter is considered a violation under the provisions of this section and subject to the penalty provided in subsection (1) of this section. The department must set the penalty amount in consideration of the previous history of the violator and the severity of the violation's impact on public health or the environment in addition to other relevant factors.

(3) When enforcing the riparian management zone requirements under this chapter, the department must coordinate with the department of ecology who may also take actions to enforce any water quality standard violation resulting from the conditions in the riparian lands owned by the person.

(4) Any penalty issued by the department must be delivered to the person by registered mail.

NEW SECTION. **Sec.**  Orders and penalties issued by the department to enforce the provisions of this chapter are appealable under chapter 43.21B RCW.

**PART 5**

**MONITORING**

**Sec.**  RCW 77.85.160 and 1999 sp.s. c 13 s 13 are each amended to read as follows:

(1) State salmon monitoring data provided by lead entities, regional fisheries enhancement groups, and others shall be ((~~included in the database of SASSI [salmon and steelhead stock inventory] and SSHIAP [salmon and steelhead habitat inventory assessment project]~~)) made available for inclusion in the state and tribal databases of the salmon and steelhead habitat inventory assessment program. Information pertaining to habitat preservation projects funded through the Washington wildlife and recreation program, the conservation reserve enhancement program, and other conservancy programs related to salmon habitat shall be included in the ((~~SSHIAP~~)) salmon and steelhead habitat inventory assessment program project databases.

(2) High-resolution and other digital data pertaining to the amount and condition of riparian management zones as defined in section 205 of this act and other habitat conditions necessary for salmon recovery across the state must be maintained by the department in a digital web-based atlas. The riparian and salmon habitat atlas will consolidate riparian and salmon habitat data from the department, department of ecology, department of natural resources, department of agriculture, and conservation commission, in consultation with federally recognized tribes, lead entities, and salmon recovery regional organizations on an annual basis and make information available in a public-facing web application. The department must monitor changes and report biennially in the consolidated report on salmon recovery and watershed health under RCW 77.85.020.

**PART 6**

**LAND USE**

**Sec.**  RCW 36.70A.020 and 2021 c 254 s 1 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

(14) Salmon recovery. Support the recovery and enhancement of salmon and steelhead stocks through the protection and restoration of floodplains, riparian management zones, and other salmon habitat restoration areas identified in salmon recovery plans and achieve abundance for harvest and the delisting and recovery of threatened or endangered salmon and steelhead runs under the federal endangered species act.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

Counties and cities fully planning under RCW 36.70A.040 must include restoration and protection of riparian management zones as part of their next scheduled periodic update including, but not limited to, comprehensive plans, capital facilities plans, development regulations, critical areas protection, and shoreline master programs.

**Sec.**  RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

((~~Unless the context clearly requires otherwise, the~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed ((~~thirty~~)) 30 percent of the monthly income of a household whose income is:

(a) For rental housing, ((~~sixty~~)) 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(4) "City" means any city or town, including a code city.

(5) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. ((~~"Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.~~))

(7) "Department" means the department of commerce.

(8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(9) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(10) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(11) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(12) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(13) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(14) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(15) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(16) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(17) "Minerals" include gravel, sand, and valuable metallic substances.

(18) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(19) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(20) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(21) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(22) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(23) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife ((~~and~~)), for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(24) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(25) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(26) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(27) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(28) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(29) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(30) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below ((~~fifty~~)) 50 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(31) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from 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 created to mitigate conversion of wetlands.

(32)(a)(i) "Fish and wildlife habitat conservation areas" means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem and which, if functions are reduced, may reduce the likelihood that the species will persist. These areas include, but are not limited to: Riparian management zones, floodplains, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

(ii) Counties and cities may also designate locally important habitats and species.

(b) "Fish and wildlife habitat conservation areas" does not include artificial features or constructs such as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

(33) "Riparian management zone" has the same meaning as defined in section 202 of this act.

(34) "Watershed" means a water resource inventory area or "WRIA" established consistent with chapter 90.82 RCW, a subbasin watershed established in that chapter, or an independent natural drainage that flows directly into marine waters.

**Sec.**  RCW 36.70A.172 and 2010 c 211 s 3 are each amended to read as follows:

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. Management recommendations for wetlands made by the department of ecology, and for fish and wildlife habitat conservation areas made by the department of fish and wildlife, form the basis for inclusion of best available science. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries, including riparian management zones established by the department of fish and wildlife in accordance with this act.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas.

NEW SECTION. **Sec.**  A new section is added to chapter 90.58 RCW to read as follows:

Shoreline master program updates approved after the effective date of this section must include riparian management zone protection and restoration requirements of this act.

**Sec.**  RCW 77.55.231 and 2021 c 279 s 2 are each amended to read as follows:

(1)(a) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) In the event that any person desires to replace ((~~residential~~)) marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace ((~~residential~~)) marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common alternatives identified in (b)(i) through (vii) of this subsection are in order from most preferred to least preferred:

(i) Remove the structure and restore the beach;

(ii) Remove the structure and install native vegetation;

(iii) Remove the structure and control upland drainage;

(iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;

(v) Remove the hard structure and construct upland retaining walls;

(vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or

(vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project.

**PART 7**

**STATE/TRIBAL RIPARIAN OVERSIGHT COMMITTEE**

NEW SECTION. **Sec.**  A new section is added to chapter 43.06 RCW to read as follows:

The governor's office of Indian affairs shall convene a state/tribal riparian management oversight committee that will review and support implementation of this act. The committee may develop performance targets and adaptive management thresholds, and recommend changes to rules, regulations, and policies as needed to improve implementation of this act.

**PART 8**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  Sections 101 through 206 and 302 through 404 of this act constitute a new chapter in Title 77 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**