

The following changes are recommended, to clarify provisions of the SMP, and are consistent with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III)

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE
1	Section 4.04.02 B Critical Areas and Shoreline Vegetation Conservation Page 26	Overlapping buffers	<p>B. Shoreline Buffer Table</p> <ol style="list-style-type: none"> 1. The required critical area buffers for WDFW Type S waters shall be considered shoreline buffers, as established by SMP Table 4-1: Shoreline Buffers. 2. The buffers for all other critical areas shall be established in accordance with the standards found in SMP Appendix 2: Critical Areas Regulations. <u>If buffers for two contiguous critical areas overlap, such as buffers for a shoreline and a wetland, the wider buffer applies.</u> 	Edits are suggested for implementation clarity when there are overlapping buffers and mirrors language regarding overlapping buffers found in Appendix 2, page 24.
2	Section 4.04.02 B Critical Areas and Shoreline Vegetation Conservation Page 26	Definition of non- water-oriented	<p>B. Shoreline Buffer Table</p> <ol style="list-style-type: none"> 7. Subcategories for types of uses or activities include the following terms: <ol style="list-style-type: none"> a. <u>Water-dependent</u> means a use that cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations, such as a port or sewer outfall. b. <u>Water-related</u> means a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location, such as a fish processing plant or a sewer treatment plant. c. <u>Water-enjoyment</u> means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use. Examples include public trails, golf courses, parks, etc. d. <u>Non-water-oriented</u> means <u>those uses that are not water-dependent, water-related, or water-enjoyment, such as everything else:</u> a grocery store, etc. 	Revisions to 7(d) are recommended for consistency with the definition in WAC 173-26-020(27) and for internal consistency with the remainder of Regulation 7 which defines terms and then provides examples.
3	Section 4.04.02 C Critical Areas and Shoreline Vegetation Conservation Page 29	Mitigation Plans	<p>C. Standard Shoreline Buffer Width Reduction Options</p> <p>...</p> <ol style="list-style-type: none"> 1. Shoreline Buffer Averaging <ol style="list-style-type: none"> a. ... b. A mitigation plan shall be prepared by the applicant as outlined in SMP Appendix 2: Section 2.03.05 <u>06</u> with shoreline functions substituted for wetland functions. ... 	It appears the correct citation is 2.03.06 in Appendix 2.
4	Section 4.04.02 C Critical Areas and Shoreline Vegetation Conservation Page 31	Mitigation Plans	<p>C. Standard Shoreline Buffer Width Reduction Options</p> <ol style="list-style-type: none"> 2. Common Line Provisions (Applicable to Single-Family Residential Only) <p>...</p>	It appears the correct citation is 2.03.06 in Appendix 2.

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			If the conditions in SMP Section 4.04.02(C)(2)(a) are met, the applicant may prepare a mitigation plan as outlined in SMP Appendix 2: Section 2.03. 05 <u>06</u> with shoreline functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that: a. A mitigation plan in accordance with SMP Appendix 2: Section 2.03. 05 <u>06</u> demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or	
5	Section 4.04.02 F Critical Areas and Shoreline Vegetation Conservation Page 35		F. Revegetation 1. Surfaces that are cleared of vegetation in shoreline or critical area buffers, aside from normal maintenance described in SMP Section 4.04.02(E)(6), and are not developed must be replanted within one year. Replanted areas shall be planned <u>planted</u> and maintained such that within three years the vegetation cover is at least 90 percent reestablished...	Typographical correction.
6	Section 4.05.02 Flood Hazard Management Page 38	Regulations	E. If new structural flood hazard management measures are required and no alternative exists , as documented in a geotechnical analysis, the structural measures shall be placed landward of any associated wetlands and shoreline buffer areas <u>except for actions that increase ecological functions, such as wetland restoration or if it is determined that no other alternative to reduce flood hazard to existing development is feasible.</u>	As written, the provision would be very restrictive. Revised language, consistent with WAC 173-26-221(3)(c)(iii), is recommended to ensure alternatives can be considered. Any structural flood hazard management measures will still need to be consistent with the SMP requirements for mitigation sequencing and no net loss of ecological function.
7	Section 5.02 General Shoreline Use Page 45	Regulations	These policies and regulations apply to all developments and uses within shoreline jurisdiction whether shoreline permits or written letters of exemptions are required or not.	Minor typographical corrections
8	Section 5.02.02 General Shoreline Use Page 45	Regulations	B. Development shall comply with <u>the most restrictive</u> all bulk and dimensional requirements found in the <u>HMC or the SMP zoning and subdivision codes.</u>	The provision is redundant with Section 1.07. Revision is recommended to avoid inadvertently incorporating these standards into the SMP. Alternatively, the provision could be deleted.
9	Section 5.03 Allowed shoreline Uses Page 46		D. Uses identified as "Conditional" require a shoreline conditional permit pursuant to SMP Section 7.04.02. Any use not listed in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses shall require a shoreline conditional use permit.	Minor typographical correction
10	Section 5.04.02 Shoreline Height Standards Page 50		D. As defined in SMP Section 5.10, Industrial and Port Development in the High Intensity shoreline environment designations may be increased without a shoreline variance provided... Table 5-2 Notes: (1) Maximum shoreline height may be increased to 55 feet in the General Commercial (C-1) zoning designation with approval of a shoreline variance.	Provisions in D related to Industrial and Port Development in the High Intensity, which are allowed to be increased without a variance, appear to conflict with the notes of Table 5.2 which require a shoreline variance. Revision to Note (2) is recommended to improve internal consistency.

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			<p>(2) Maximum shoreline height may be increased over 35 feet in the Industrial (I) zoning designations with approval of a shoreline variance <u>except that Industrial and Port Development does not need a variance as noted in SMP Section 5.04.02(D).</u></p>	
11	<p>Section 5.05 Agriculture Page 52</p>	<p>Upland finfish facilities</p>	<p>5.05 Agriculture</p> <p>New agricultural uses are prohibited in shoreline jurisdiction, <u>except upland finfish facilities which are allowed with a conditional use permit.</u></p> <p>Add the following Policy: <u>Permit upland finfish facilities in shoreline jurisdiction as a shoreline conditional use to allow the city and Ecology to review proposals on a case-by-case basis using the most current and best information.</u></p> <p>Add the following Regulation: <u>Upland finfish facilities in the shoreline jurisdiction require a shoreline conditional use permit. Review of the application by the Shoreline Administrator will include consideration of the following:</u></p> <ul style="list-style-type: none"> a. <u>Specific site conditions;</u> b. <u>Current and locally applicable science;</u> c. <u>Potential use conflicts;</u> d. <u>Cumulative impacts; and</u> e. <u>Potential mitigation and monitoring requirements</u> <p>5.06 Aquaculture</p> <p>Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals, excluding upland finfish facilities, which are regulated in SMP Section 5.05....</p>	<p>Section 5.06 points to 5.05 for regulation of upland finfish facilities.</p> <p>Note (4) to Table 5-1, allows upland finfish facilities with a conditional use permit. However, per the language in Section 5.05, new agricultural uses (which includes upland finfish facilities) are prohibited in shoreline jurisdiction. Recommended edits resolve this internal inconsistency.</p>
12	<p>Section 5.06.02 C Aquaculture Page 54</p>	<p>Regulations</p>	<p>C. General Requirements</p> <p>3. New aquatic species that were not previously found or cultivated in the shoreline jurisdiction shall not be introduced into fresh waters without prior written approval of the WDFW and the Washington State Department of Health.</p>	<p>Correction to an error. The Department of Health has no authority over the introduction of species. This authority lies only with Department of Fish and Wildlife (WDFW). See RCW 77.12.047, WAC 220-77 and WAC 220-72 which set forth WDFW’s authority and permit requirements.</p>
13	<p>Section 5.06.02 D Aquaculture Page 55</p>	<p>Geoduck regulations</p>	<p>D. Commercial Geoduck Aquaculture</p> <p>2. Planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific product or practice does not <u>causes</u> substantial interference with normal public use of the surface waters.</p>	<p>Typographical corrections to ensure consistency with WAC 173-26-241(3)(b)(iii)</p>

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14	Section 5.10.02 Industrial and Port Development Page 70	Regulations	B. The location, design, and construction of industrial and port development shall <u>not</u> result in no a net loss of ecological functions or have significant negative impacts to shoreline use, resources, and navigation, recreation, and public access.	Typographical corrections to improve clarity and insure consistency in the regulation with Section 5.10.01, Policy B.
15	Section 5.14 Residential Development Pages 74-75		Residential development includes single-family residences and appurtenances, multifamily development, and appurtenant structures and uses, including garages, sheds, fences, necessary utilities, and driveways as well as the creation of new residential lots through land division. Single-family residences are a priority use when developed in a manner consistent with no net loss of environmental <u>ecological</u> functions. ... 5.14.01 Policies F. Consider single-family residences a priority use in planning for uses in the shoreline jurisdiction when developed with no net loss of environmental <u>ecological</u> functions.	Edits ensure consistency of terms throughout the SMP which uses “no net loss of <i>ecological</i> functions”
16	Section 5.16 Transportation Facilities Pages 77-78	Applicability	Transportation facilities include structures that provide for the movement of people, goods, and services by land, air, and water. Transportation facilities include highways, bridges, bikeways, airports, and other related facilities. This section applies to new and expanded transportation facilities within shoreline jurisdiction. <u>A driveway for an individual single-family residence is considered part of the primary use and it should be reviewed as part of SMP Section 5.14.</u> 5.16.01 POLICIES 5.16.02 APPLICABILITY A. This section applies to public and private transportation facilities serving motorized and nonmotorized uses. B. A driveway for an individual single-family residence is considered part of the primary use and it should be reviewed as part of SMP Section 5.14. 5.16.03 REGULATIONS	The placement of the Applicability section between the policies and regulations is awkward and inconsistent with other SMP sections which don’t include an Applicability section. The redundant language is proposed to be deleted with the remaining language relocated to the introduction. Renumber the remaining section.
17	Section 5.17 Utilities Pages 79-80	Utilities	The provisions of this section apply only to <u>public and private</u> facilities that produce, convey, store, or process power, gas, sewage, communications, oil, or waste. <u>Utilities serving an individual use, or On-site utility features serving a primary use, such as an electrical line or water, sewer or gas lines to an individual use, are considered accessory utilities and shall be considered under the standards of the primary use of the property. <u>Water intake and water or fish conveyances between a waterbody and an aquaculture facility are not considered utilities under this section of the SMP. Consult SMP Section 5.06.</u></u>	The placement of the Applicability section between the policies and regulations is awkward and inconsistent with other SMP sections which don’t include an Applicability section. The redundant language is proposed to be deleted with the remaining language relocated to the introduction. Renumber the remaining section.

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			<p>5.17.01 POLICIES</p> <p>5.17.02 APPLICABILITY</p> <p>A. This section applies to public and private utility facilities and lines serving more than an individual use.</p> <p>B. Utilities serving an individual use are considered part of the primary use and should be reviewed under the regulations for that use.</p> <p>C. Water intake and water or fish conveyances between a waterbody and an aquaculture facility are not considered utilities under this section of the SMP. Consult SMP Section 5.06.</p> <p>5.17.032 REGULATIONS</p>	
18	<p>Section 6.04.01 Dredging and dredge material disposal Page 88</p>	Policies	<p>D. Permit dredging as part of restoration or enhancement, public access, flood storage <u>as part of a flood hazard management program</u>, or navigation if deemed consistent with the SMP.</p> <p>E. Prohibit dredging waterward of the OHWM to obtain fill except when the dredge material is necessary for the restoration of shoreline ecological functions or as part of a flood hazard management program.</p>	Revisions ensure consistency with WAC 173-26-231(3)(f) and WAC 173-26-221(3).
19	<p>Section 6.04.02 Dredging and dredge material disposal Page 89</p>	Regulations	<p>A. Dredging</p> <p>...</p> <p>4. Dredging shall be prohibited for the primary purpose of obtaining fill material, except when permitted under SMP Section 4.05 or when necessary for the restoration of shoreline ecological functions. In the latter case and <u>consistent with the following</u>:</p> <p>a. Dredge material must be placed waterward of the OHWM.</p> <p>b. The project must be associated with either a MTCA or CERCLA habitat restoration project or, if the project is approved through a shoreline conditional use permit, the project may be another significant habitat enhancement project.</p>	Dredging for flood hazard reduction (Section 4.05) is addressed in Regulation 2.g. Edits improve consistency with Dredging and Dredge Disposal provisions found in WAC 173-26-231(3)(f).
20	<p>Section 6.07.02 Shoreline stabilization Page 97</p>	Regulations	<p>B. Repair and Maintenance of Existing Shoreline Stabilization Structures</p> <p>1. The following items distinguish between maintenance and repair of a shoreline stabilization structure and a new structure:</p> <p>a. Maintenance and repair includes modifications to an existing shoreline stabilization structure that is designed to ensure the continued function of the existing structure.</p> <p>b. A modification that increases the size of the existing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.</p> <p>c. Replacement of greater than 50 percent or 35 feet of the <u>linear length of an existing shoreline stabilization structure, whichever is smaller</u>, as measured on a cumulative basis since the structure was</p>	Recommended edit. This limit makes sense on densely developed shorelines with numerous small lots but seems overly restrictive in other areas.

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			established, is not considered repair or maintenance, and is considered a new structure.	
21	Section 6.07.02 Shoreline Stabilization Pages 100	Regulations	E. General Design Standards 2.f. Fill behind shoreline stabilization structures is limited to one cubic yard per running foot of stabilization. Filling in excess of this amount shall be considered a regulated activity subject to the regulations in SMP Section 6.03 and require a shoreline substantial development permit or shoreline conditional use permit.	Edits improve clarity and delete unnecessary language. All shoreline activities are regulated. The intent of this regulation is to ensure fill that exceeds the standard in the first sentence is also reviewed against the provisions of the SMP Section on fill.
22	Section 7.02.02 Provisions Applicable to All Shoreline Permits Page 104		A. Unless specifically exempted by statute (<u>see RCW 90.58.355</u>), all proposed uses and development occurring within shoreline jurisdiction must conform to local development codes and standards, Chapter 90.58 RCW, the SMA, and this SMP whether or not a permit is required.	It's recommended the city ensure the SMP incorporates recent legislative changes. New exemptions to the definition of "substantial development" added to RCW 90.58.030 will be captured in WAC 173-27-040 during Ecology's rule revisions slated in 2017. Because the SMP directly references this portion of the rule in 7.04.04 B, no revisions are needed. However, the provisions in RCW 90.58.355 which list those things that require no local review or approval under the Shoreline Management Act, are not addressed anywhere in the SMP. Adding a reference to this section is suggested.
23	Section 7.05.03 Notice of Decision Pages 109-110	Filing permits	The Shoreline Administrator shall notify the following persons in writing of the Shorelines Hearings Board's final approval, conditional approval, or disapproval of a shoreline substantial development permit, conditional use permit, or variance within 14 days of the Shorelines Hearings Board's final decision: A. The applicant; B. Ecology, <u>consistent with the requirements of WAC 173-27-130</u> ; C. The Washington State Attorney General; D. Any person who has provided written or oral comments on the application or the public hearing; and E. Any person who has written the Shoreline Administrator requesting notification.	The SMP lacks administrative procedures for filing permits with Ecology and the Attorney General's Office as required in WAC 173-26-191(2)(a)(iii)(C). Unless addressed in city code elsewhere, revisions ensure the Shoreline Administrator is informed of the requirements for filing a shoreline permit with Ecology.