

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	B. Shoreline Buffer Table 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 to clarify implementation where there are overlapping buffers.
2	Section 4.04.02 B Critical Areas and Shoreline Vegetation Conservation Page 26	Definition of non- water-oriented	B. Shoreline Buffer Table 7. Subcategories for types of uses or activities include the following terms: 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 Pages 30-33	Buffer Width Reduction Options	C. Standard Shoreline Buffer Width Reduction Options 1. <u>Shoreline Buffer Averaging</u> a. The width of a standard shoreline buffer may be averaged, thereby reducing the width of a portion of the shoreline buffer and increasing the width of another portion of the shoreline buffer. b. A mitigation plan shall be prepared by the applicant as outlined in AMC Section 14.100.072 with shoreline functions substituted for wetland functions. The applicant will need to demonstrate to the satisfaction of the Shoreline Administrator that the following criteria are addressed: ... 2. Common Line Provisions	There appear to be some formatting errors in the section which may be contributing to the citation errors. The referenced section of the CAO is a general section on mitigation rather than one specific to wetland functions. This is just the first location where it is recommended that an unneeded phrase be removed. The same revision is recommended in C.2.a(4)(b) Common line provisions (there are formatting errors here), and C.4.b. Shoreline Buffer Width Reduction

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			<p>a.4. If the conditions in SMP Section 4.04.02(C)(2)(a) are met, the applicant may prepare a mitigation plan as outlined in AMC 14.100.072 with shoreline functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that:...</p> <p>4. Shoreline Buffer Width Reduction</p> <p>b. If the conditions in SMP Section 4.04.02(C)(4)(a) are met, the applicant may prepare a mitigation plan as outlined in AMC Section 14.100.072 with shoreline functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that:...</p>	
4	<p>Section 4.04.02 E Critical Areas and Shoreline Vegetation Conservation Page 36</p>	Mitigation Plan	<p>E. Vegetation Conservation Standards</p> <p>2. Authorized uses shall be designed to avoid removing existing native vegetation to the maximum extent feasible within shoreline and critical areas buffers consistent with safe construction practices, and other provisions of this section. Any impacts to existing native vegetation must follow the mitigation sequence in SMP Section 4.03 above and comply with <u>AMC Section 14.100 as modified by SMP Appendix 2: Critical Areas Regulations, as modified in and</u> SMP Section 4.04.02(A) above.</p> <p>3. Removal of vegetation within shoreline and critical areas buffers shall require a critical area report and/or a mitigation plan in coordination with the requirements of AMC Section 14.100.072 SMP Appendix 2: Critical Areas Regulations. The Shoreline Administrator may require a critical area report for critical areas regulations exempt activities if necessary to document compliance with the provisions in the SMP.</p>	Edits improve internal consistency with the mitigation plan references set forth in Section C. Standard Shoreline Buffer Width Reduction Options. (See item directly above)
5	<p>Section 4.04.02 F Critical Areas and Shoreline Vegetation Conservation Page 37</p>	Regulations	<p>F. Revegetation</p> <p>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...</p>	Typographical correction
6	<p>Section 4.05.02 Flood hazard management structures Page 39</p>	Regulations	<p>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></p>	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.

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7	Section 5.02 General Shoreline Use Page 45		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 46	Regulations	B. Development shall comply with <u>the most restrictive</u> all bulk and dimensional requirements found in the <u>AMC or the SMP zoning and subdivision codes</u> .	Revision is recommended to avoid inadvertently incorporating these standards into the SMP. Alternatively, the provision could be deleted because it is redundant with Section 1.07.
9	Section 5.03 Allowed shoreline Uses Page 47		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 51		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) <u>Except as allowed in 5.04.02(D), maximum</u> Maximum shoreline height may be increased over 35 feet in the Light Industrial (L-I) zoning district and Industrial (I) zoning district with approval of a shoreline variance. (2) Maximum shoreline height may be increased to 45 feet in the Multiple Family Residential (R-M) zoning district 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 Note 1 of Table 5.2 which requires a shoreline variance See recommended revision to Note (1) to improve internal consistency.
11	Section 5.06.02 C Aquaculture Page 58	Regulations	C. General Requirements 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 .	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.
12	Section 5.06.02 D Aquaculture Page 59	Geoduck regulations	D. Commercial Geoduck Aquaculture 2. Planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific product or practice does not causes substantial interference with normal public use of the surface waters.	Typographical corrections to ensure consistency with WAC 173-26-241(3)(b)(iii).
13	Section 5.10.02 Industrial and Port Development Page 74	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 help improve clarity and insure consistency in the regulation with Section 5.10.01, Policy B

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14	Section 5.14 Residential Development Pages 80-81		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”
15	Section 5.16 Transportation Facilities Pages 83-84	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.
16	Section 5.17 Utilities Pages 85-86		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,</u> are considered accessory utilities and shall be considered under the standards of the primary use of the property. 5.17.01 POLICIES 5.17.02 APPLICABILITY A. This section applies to public and private utility facilities and lines serving more than an individual use. B. Utilities serving an individual use are considered part of the primary use and should be reviewed under the regulations for that use.	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>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>	
17	Section 6.04.01 Dredging and dredge material disposal Page 94	Policies	<p>D. Permit dredging as part of restoration or enhancement, public access, flood storage as part of a flood hazard management program, 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).
18	Section 6.04.02 Dredging and dredge material disposal Pages 95-96	Regulations	<p>A. Dredging ... 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. 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.h. Edits improve consistency with Dredging and Dredge Disposal provisions found in WAC 173-26-231(3)(f).
19	Section 6.07.01 Shoreline stabilization Page 104	Policies	<p><u>P. If state-owned aquatic lands are beyond the OHWM, consultation with WDNR will be required.</u></p>	Recommended language is added at the request of a Department of Natural Resources (WDNR) comment.
20	Section 6.07.02 Shoreline stabilization Page 104	Regulations	<p>A. Design and Location of New Development</p> <p><u>4. If new development is proposed on state-owned aquatic lands consultation with WDNR will be required before final design is completed.</u></p>	Recommended language is added at the request of WDNR.
21	Section 6.07.02 Shoreline stabilization Page 104	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. b. A modification that increases the size of the existing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.</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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			<p>c. Replacement of greater than 50 percent or 35 feet of the linear length of an existing shoreline stabilization structure, whichever is smaller, as measured on a cumulative basis since the structure was established, is not considered repair or maintenance, and is considered a new structure.</p>				
22	<p>Section 6.07.02 Shoreline stabilization Pages 106-107</p>	Regulations	<p>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.</p>	<p>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.</p>			
23	<p>Section 7.02.02 Provisions 23 Applicable to all Shoreline Permits Page 110</p>		<p>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.</p>	<p>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.</p>			
24	<p>Section 7.05.03 Notice of Decision Page 116</p>	Filing permits	<p>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.</p>	<p>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.</p>			
25	<p>Appendix 2: Critical Area Regulations Page A2-4</p>	Table A2-1	<table border="1"> <tr> <td data-bbox="575 1105 862 1268">AMC 14.100.551</td> <td data-bbox="862 1105 1150 1268">Fish and Wildlife Habitat Conservation <u>Conservation</u> Areas – Water Bodies – Buffer Averaging</td> <td data-bbox="1150 1105 1435 1268">Replaced by SMP Section 4.04.02(C)</td> </tr> </table>	AMC 14.100.551	Fish and Wildlife Habitat Conservation <u>Conservation</u> Areas – Water Bodies – Buffer Averaging	Replaced by SMP Section 4.04.02(C)	<p>Typographical correction</p>
AMC 14.100.551	Fish and Wildlife Habitat Conservation <u>Conservation</u> Areas – Water Bodies – Buffer Averaging	Replaced by SMP Section 4.04.02(C)					