

The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III);

ITEM	SMP PROVISION	TOPIC	Bill Format Changes [<u>underline</u> -additions; strikethrough -deletions]	ECOLOGY - DISCUSSION/RATIONALE
A	Chapter 2 Page 2-3	Definitions	<p>Average grade level – <u>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.</u> The computed average of the lowest and the highest points of elevation of the original surface of the ground, or existing paving or sidewalk within the area between the building and property line, or, when the property line is more than five feet from the building, between the building and a line five feet from the building. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark (OHWM).</p>	<p><i>This change is required per WAC 173-26-191 (2)(a)(ii)(A) -“Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies”.</i></p> <p><i>The proposed definition conflicts with the definition in WAC 173-27-030 (3).</i></p>
B	Chapter 2 Page 2-6	Definitions	<p>Date of filing – The date upon actual receipt by Ecology of the City’s decision except as provided for below:</p> <ol style="list-style-type: none"> 1. With regard to a permit for a variance or a conditional use, “date of filing” means the date the decision of Ecology is transmitted by Ecology to the City. 2. When the city simultaneously transmits to Ecology its decision on a shoreline permit with its approval of either a shoreline conditional use or variance, or both, “date of filing” has the same meaning as defined in <u>(1a)</u>. 	<p><i>This change is required in per WAC 173-26-191 (2)(a)(ii)(A) -“Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies” - for consistency with RCW 90.58.140 (6).</i></p>
C	Chapter 2 Page 2-6	Definitions	<p>Development – An activity consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that may interfere with the normal public use of the surface of the waters overlying lands subject to the Shorelines Management Act of 1971 at any state of water level (RCW 90.58.030(3a<u>d</u>)). See also Substantial Development.</p>	<p><i>This change is required for consistency with RCW 90.58.030 (3)(a).</i></p>
D	Chapter 2 Page 2-10	Definitions	<p>Limited utility extension – The extension of a utility service that is categorically exempt under RCW 43.21C for natural gas, electricity, telephone, water or sewer to service an existing use <u>in compliance with the SMP</u> and does not extend more than twenty-five hundred (2500) linear feet within the shorelines of the state.</p>	<p><i>This change is required per WAC 173-26-191 (2)(a)(ii)(A) -“Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies”.</i></p> <p><i>The proposed definition is lacking details provided in WAC 173-27-120.</i></p>
E	Chapter 2 Page 2-18	Definitions	<p>Shoreline stabilization – Structural and non-structural 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. <u>Non-structural methods include building setbacks, relocation of structures, groundwater management, and planning and regulatory measures to avoid the need for structural shoreline stabilization. “Hard” structural stabilization measures refer to those with solid, hard surfaces such as concrete bulkheads, while “soft” structural measures rely on less rigid materials such as biotechnical vegetation measures or beach enhancement.</u></p>	<p><i>This change is required per WAC 173-26-191 (2)(a)(ii)(A) -“Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies”.</i></p> <p><i>The regulations in section 7.3.2 of the SMP differentiate between structural and non-structural shoreline stabilization, which difference is never defined. They also reference soft and hard structural shoreline stabilization, which are not defined. The language added to this definition is consistent with WAC 173-26-231 (3)(a)(i) and (ii).</i></p>

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F	Chapter 4 Page 4-4	4.5.2 Policies	D. 3. New structural flood hazard reduction measures shall <u>should</u> be avoided whenever possible in order to avoid reducing floodplain functions crucial to fish and wildlife species, bank stability, and water quality. When necessary, they shall <u>should</u> be consistent with an adopted comprehensive flood hazard management plan and accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.	<i>This change is required to support consistent use of the terms “should” and “shall”. The SMP Guidelines differentiate between “shall” (the imperative voice meaning a mandate, and that the action is required) and “should” (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) - WAC 173-26-191 (2). “Should” is used in policies and “shall” is used in standards or regulations.</i>
G	Chapter 4 Page 4-7	4.9.2 Policies	B. New utility processing and production facilities shall <u>should</u> not be located in shoreline areas unless it can be demonstrated that no other feasible option exists.	<i>This change is required to support consistent use of the terms “should” and “shall”. The SMP Guidelines differentiate between “shall” (the imperative voice meaning a mandate, and that the action is required) and “should” (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) - WAC 173-26-191 (2). “Should” is used in policies and “shall” is used in standards or regulations.</i>
H	Chapter 4 Page 4-8	4.9.2 Policies	E. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, should be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall <u>should</u> assure no net loss of ecological functions. F. Non-water-dependent essential public facilities or parts thereof should not be located in shoreline areas unless no other feasible alternative exists and shall <u>should</u> be designed and operated to assure that there is no net loss of ecological function in accordance with the mitigation sequencing provisions of this Program.	<i>This change is required to support consistent use of the terms “should” and “shall”. The SMP Guidelines differentiate between “shall” (the imperative voice meaning a mandate, and that the action is required) and “should” (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) - WAC 173-26-191 (2). “Should” is used in policies and “shall” is used in standards or regulations.</i>
I	Chapter 4 Page 4-9	4.10.2 Policies	H. 2. Priority consideration shall <u>should</u> be given to non-structural and non-regulatory approaches as an alternative to the construction of new in-stream structures.	<i>This change is required to support consistent use of the terms “should” and “shall”. The SMP Guidelines differentiate between “shall” (the imperative voice meaning a mandate, and that the action is required) and “should” (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) - WAC 173-26-191 (2). “Should” is used in policies and “shall” is used in standards or regulations.</i>
J	Chapter 4 Page 4-10	4.10.2 Policies	J. 1. Recognize single-family uses as a preferred use <u>when they can be developed without significant impact to ecological functions or displacement of water-dependent uses.</u>	<i>This change is required for consistency with WAC 173-26-201 (2)(d)(iv).</i>
K	Chapter 6 Page 6-2	6.1 No Net Loss of Ecological Function	E. 6. Monitor the adverse impact <u>and the compensation projects</u> and take appropriate corrective measures.	<i>This change is required in accordance with WAC 173-26-221 (2)(e)(i)(F).</i>
L	Chapter 6 Page 6-5	6.4 Flood Prevention and Flood Damage Minimization	F. 4. b. Placed landward of associated wetlands and designated fish and wildlife conservation area buffers identified in Table 4 of Appendix C of this SMP, except for actions that increase ecological functions, unless there is no other feasible alternative, <u>as documented by a geotechnical analysis,</u> to reduce flood hazard to existing development in which case all impacts will be mitigated as required in Section 6.1 and Appendix C.	<i>This change is required in accordance with WAC 173-26-221 (3)(c)(iii).</i>
M	Chapter 6 Page 6-11	6.6 Vegetation Conservation	E. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat. When shoreline uses or modifications require a planting plan (i.e., uses or modifications that require a mitigation plan), maintaining native plant communities, replacing noxious weeds and avoiding installation of ornamental plants are preferred. Nonnative vegetation requiring use of fertilizers, herbicides/pesticides, or summer watering is discouraged.	<i>This change is required per WAC 173-26-191 (2)(a)(ii)(A) - “Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies”. <i>This is not an enforceable regulation as written, but it could be retained as a policy (see recommended change Q).</i></i>

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			<u>ReNUMBER following provisions.</u>	
N	Chapter 7 Page 7-1	Table 7-1. Shoreline Use, Modification, Setbacks, and Heights	Commercial (4) Water-enjoyment P P PX	<i>This change is required per WAC 173-26-191 (2)(a)(ii)(A) - "Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies".</i> <i>This provision conflicts with management policy A in section 5.4.4, which outlines that new in- and over-water structures will only be allowed for water dependent uses, public access, or ecological restoration, and with WAC 173-26-211 (5)(c)(ii)(A).</i>
O	Chapter 7 Page 7-4	7.2.2 Aquaculture	B. Aquaculture is not allowed where it would <u>result in a net loss of ecological functions, or</u> significantly conflict with navigation or other water-dependent uses.	<i>This change is required in accordance with WAC 173-26-241 (3)(b)(i)(C).</i>
P	Chapter 7 Page 7-5	7.2.3 Boating Facilities	A. 11. New uses, developments, and activities accessory to boating facilities <u>shall</u> should be located outside any applicable shoreline buffer unless at least one of the following is met:	<i>This change is required to support consistent use of the terms "should" and "shall". The SMP Guidelines differentiate between "shall" (the imperative voice meaning a mandate, and that the action is required) and "should" (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) - WAC 173-26-191 (2). "Should" is used in policies and "shall" is used in standards or regulations.</i>
Q	Chapter 7 Page 7-7	7.2.3 Boating Facilities	D. 4. a. Docks shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. The length of docks accessory to residential use/development shall be no greater than that required for safety and practicality for the residential use. The maximum length for residential docks shall be limited to either sixty (60) feet as measured horizontally from the OHWM, or the length necessary to provide a minimum of six (6) feet of water depth. The maximum width for residential docks shall be limited to six (6) feet. The dimensional standards may be adjusted as required by local, state and federal agencies, <u>however adjustments exceeding these maximums requires a variance.</u>	<i>This change is required in accordance with WAC 173-26-191 (2)(a)(iii)(B).</i>
R	Chapter 7 Page 7-9	7.2.4 Commercial	<u>F. Commercial uses that may be authorized as water-related or water-enjoyment commercial uses are required to incorporate appropriate design and operational elements so that they meet the definition of water-related or water-enjoyment uses.</u>	<i>This change is required for compliance with WAC 173-26-231 (3)(d).</i>
S	Chapter 7 Page 7-13	7.2.10 Recreational Development	F. Parking areas shall be located outside of shoreline jurisdiction, unless unfeasible, in which case parking facilities should <u>shall</u> be sited on the landward side of recreational development and levees/dikes, if present, in accordance with the mitigation sequencing provisions of this Program.	<i>This change is required to support consistent use of the terms "should" and "shall." The SMP Guidelines differentiate between "shall" (the imperative voice meaning a mandate, and that the action is required) and "should" (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) - WAC 173-26-191 (2). "Should" is used in policies and "shall" is used in standards or regulations.</i>
T	Chapter 7 Page 7-14	7.2.11 Residential Development	D. New residential lots shall be configured such that new structural flood hazard reduction and shoreline stabilization measures will not be required during the life of the development or use. <u>Plats and subdivisions shall be designed and developed in a manner that assures no net loss of ecological functions will result from full build-out of all lots.</u>	<i>This change is required in accordance with WAC 173-26-241 (3)(j)(i).</i>
U	Chapter 7 Page 7-20	7.3.2 Shoreline Stabilization	F. <u>4. The stabilization structure will not result in a net loss of shoreline ecological functions.</u>	<i>This addition is required for consistency with WAC 173-26-231 (3)(a)(iii)(B)(III).</i>

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V	Chapter 7 Page 7-21	7.3.3 Breakwaters and Groins	<u>C. Breakwaters, weirs and groins shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in section 6.1 of this SMP.</u>	<i>This change is required for compliance with WAC 173-26-231 (3)(d).</i>
W	Chapter 7 Page 7-24	7.3.5 Dredging and Dredge Material Disposal	<u>L. Dredging and dredge materials disposal shall be done in a manner that avoids or minimizes significant ecological impacts and impacts that cannot be avoided shall be mitigated.</u>	<i>This change is required for consistency with WAC 173-26-231 (3)(f).</i>
X	Chapter 7 Page 7-25	7.3.6 Shoreline Habitat and Ecological Enhancement Projects	<u>D. Shoreline restoration and enhancement projects that include shoreline modification actions may be allowed provided the primary purpose of such action is clearly restoration of the natural character and ecological functions of the shoreline.</u>	<i>This change is required for consistency with WAC 173-26-231 (3)(g).</i>
Y	Chapter 8 Page 8-2	8.2 Application Requirements	G. The City shall solicit comments or technical assistance on the shoreline permit application from resource agencies with jurisdiction over the proposal within 14 days of determining an application is complete. These agencies shall have thirty (30) fourteen (14) days from the date the application is circulated by the City for comments. If a response is not received from the resource agency within the 14 30-day review period, the City will assume there are no comments on the project or activity forthcoming from the resource agency.	<i>This change is required for consistency with RCW 90.58.140 (4) and WAC 173-27-110 (e), which require 30-day public comment periods for shoreline permit applications. This correction will also address what is currently a conflict with provision I in this subsection, which (correctly) references WAC 173-27-110 for public and agency notice requirements.</i>
Z	Chapter 8 Page 8-4	8.4 Shoreline Substantial Development Permits	E. Notification of the public shall be as required by Chapter 18B of the KMC, as it now exists or is subsequently amended, <u>except that public comment periods as outlined in 18B.05.020 E shall be 30 days for shoreline permits.</u>	<i>This change is required for consistency with RCW 90.58.140 (4) and WAC 173-27-110 (e), which require 30-day public comment periods for shoreline permit applications.</i>
AA	Appendix B	Shoreline Environment Designations Map	Continue the Aquatic designation along reaches KS-01 through KS-03, as well as up the Coweeman River through reach KS-24.	<i>This change is required per WAC 173-26-191 (2)(a)(ii)(A) - "Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies".</i> <i>The Aquatic designation as shown on the map along the Columbia and Cowlitz Rivers currently stops at the SR 432 bridge at the southern end of reach KS-04. The Aquatic designation is only shown adjacent to about 2/3 of the reaches along the Coweeman River.</i>
BB	Appendix C Page C-26	3. Fish and Wildlife Habitat Conservation Areas	K. 2. c. The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the primary water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).	<i>WAC 173-26-191 (2)(iii)(B) requires Master Programs to include standards for variances that conform to WAC 173-27. WAC 173-27-170 outlines variance permits are to be used to grant relief from specific bulk, dimensional or performance standards in the Master Program. Lot size, shape and natural features (topography for example) are conditions related to a specific property that may be shown to result in a hardship and for which relief may be granted through a variance. This change narrows the specific conditions under which the named facilities would be allowed in a buffer and avoids circumventing the broad purpose of a variance related to other property conditions.</i>