

**City of Spokane SMP Update  
Attachment C: Recommended Changes**

The following changes are recommended to clarify intent and purpose of the goals, policies and regulations of the updated Spokane SMP, and originate from typographical errors or errors of syntax identified by the city after its formal submittal, from changes proposed by the city in response to comments received during Ecology’s public comment period, or from Ecology’s formal review of the submittal package and the city’s response to comments received during Ecology’s public comment period.

1) **ORDINANCE C34331, Comprehensive Plan Chapters 14 and 15**

Section/Page #	Existing	Proposed/Add
Table of Contents/Page 3	14.5 ENVIRONMENTS AND MANAGEMENT POLICIES	14.4 ENVIRONMENTS AND MANAGEMENT POLICIES
Table of Contents/Page 3	14.6 GOALS AND POLICIES	14.5 GOALS AND POLICIES
Table of Contents/Page 6	5.15 Maps	14.6 MAPS
Map Names		Maps need to be labeled
Latah Creek Buffers Map		Need to include associated wetland

**ORDINANCE C34328, Definitions**

Section/Page #	Existing	Proposed Change/Addition
Page 69		<b>Z. Shoreline Structure</b> A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

**ORDINANCE C34326, Shoreline Regulations**

Section/Page #	Existing	Proposed Change/Addition
Page 68	4. Intensive Urban Environment (IUE)	5. Intensive Urban Environment (IUE)
Page 68	5. Wastewater Treatment Plant Environment (WTPE)	6. Wastewater Treatment Plant Environment (WTPE)

2) Pages 13-14 -- **17E.060.090 Shoreline Overlay and Relationship to Other Regulations**

B. In addition to these regulations, other Washington State statutes that may be applicable to shoreline development or use include, but are not limited to:

1. Camping Resorts Act, RCW 19.105;
2. Fish and Wildlife, RCW 77;
3. Flood Control Zone Act, RCW 86.16;
4. Forest Practices Act, RCW 76.09;
5. Growth Management Act, RCW 36.70A;
6. Land Subdivision Act, RCW 58.17;
7. Pesticide Act, RCW 15.57;
8. Pesticide Application Act, RCW 17.21;
9. State Environmental Policy Act (SEPA), RCW 43.21C;
10. State Hydraulic Code, RCW 77.55;
11. Surface Mining Act, RCW 78.44;
12. Washington Clean Air Act, RCW 70.94;
13. Water Pollution Control Act, RCW 90.48;
- ~~14.~~ Water Resources Act of 1971, RCW 90.54.

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3) Pages 32-33 -- **17E.060.290 Shoreline Substantial Development Permit**

C. No use, modification, or development, except for those listed in SMC 17E.060.300, Use, Modifications, and Developments Exempt from Shoreline Substantial Development Permit Requirement, shall be undertaken in the Shoreline Jurisdiction without first obtaining a shoreline substantial development permit from the Director. Substantial developments include any development with which the total cost or fair market value, whichever is higher, does exceed five thousand seven hundred and eighteen dollars (5,718) or the adjusted amount per WAC 173-27-040, or if such development does materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of use, modification, or development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

4) Pages 43 – 45 -- **17E.060.380 Nonconforming Uses and Structures**

Definition: Nonconforming development is a shoreline use or structure that was lawfully constructed or established prior to the effective date of the Act, the SMP, or these Shoreline Regulations, or amendments thereto, but which does not conform to present regulations or standards of these Shoreline Regulations or the policies of the Act

A. In accordance with the requirements in this section, structures that were legally established prior to the SMP or these Shoreline Regulations, or amendments thereto, and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards, area, bulk, height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

B. A nonconforming structure which is moved any distance must be brought into conformance with the applicable Shoreline Regulations and the Act.

C. If a nonconforming structure is damaged to an extent not exceeding 75 percent of the replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure within six months of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance, except that nonconforming single-family residences, manufactured homes, and mobile homes may be reconstructed regardless of the extent of damage so long as application is made within the times required by this subsection.

D. The replacement, expansion, or enlargement of nonconforming residential buildings (including single-family residences, manufactured homes, and mobile homes) shall achieve no net loss of shoreline ecological functions pursuant to SMC 17E.060.210 and adhere to the Mitigation Sequencing Requirements in SMC 17E.060.220.

E. Existing nonconforming residential buildings may be replaced within the existing footprint upon approval of a shoreline ~~substantial development~~ conditional use permit.

~~2. Single-family residences shall be replaced within the same building footprint that existed prior to replacement.~~

~~F 3.~~ For the replacement of manufactured homes and mobile homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the conversion of single-wide manufactured homes to double-wide manufactured homes, upon approval of a shoreline conditional use permit.

~~D. Uses and developments that were legally established and are nonconforming with regard to the use regulations of these Shoreline Regulations may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that:~~

~~G4.~~ Existing nonconforming single-family residences, ~~manufactured homes, and mobile homes~~ may be enlarged or expanded, ~~or replaced~~ in conformance with applicable bulk and dimensional standards upon approval of a shoreline conditional use permit and by conformance with the following requirements,:

~~a. The expansion, enlargement, or replacement shall achieve no net loss of shoreline ecological functions pursuant to SMC 17E.060.210, No Net Loss.~~

~~b. The expansion, enlargement, or replacement shall adhere to the Mitigation Sequencing Requirements in SMC 17E.060.220.~~

1e. An expansion or enlargement to the main structure or the addition of a normal appurtenance as defined in WAC 173-27-040(2)(g) and chapter 17A.020 SMC, Definitions, to the main structure shall only be accomplished by:

- a.i. Addition of space above the main structure's building footprint; and/or
- b.ii. Addition of space onto or behind that side of the main structure which is the farthest away from the ordinary high water mark.

24. If the requirements in SMC 17E.060.380(~~FD~~)(4)(3e)(a) and (b) cannot be accomplished without causing significant harm to shoreline vegetation or other shoreline ecological functions, the director may require additional site analysis to determine if an alternative location for the expansion or enlargement, ~~or replacement~~ of the structure is feasible.

HE. An Existing residential buildings ~~single-family residence, manufactured home park, or mobile home park~~ that has have a change in use to another legal, conforming use shall conform to the buffer and structure setback requirements and all other requirements of the entire SMP and title 17C SMC, Land Use Standards.

IF. A use which is listed as a conditional use but which existed prior to adoption of these Shoreline Regulations or any amendment thereto, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.

JG. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this section shall apply as they apply to preexisting nonconformities.

KH. A structure which is being or has been used for a nonconforming use shall not be used for a different nonconforming use, except as provided below, and only upon the approval of a shoreline conditional use permit:

1. No reasonable alternative conforming use is practical;
2. The proposed use will be is as consistent with the policies and provisions of the Act and these Shoreline Regulations and as compatible with the uses in the area as the preexisting use; and
3. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of these Shoreline Regulations and the policies in the Act and to assure that the use will not become a nuisance or a hazard.

LJ. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

MJ. An undeveloped lot, tract, parcel, site, or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or the applicable Shoreline Regulations but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the City so long as

such development conforms to all other requirements of the applicable Shoreline Regulations and the Act.

5) Page 53 -- **17E.060.440 Jetties, Groins and Weirs**

A. Jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or publicly owned and/or maintained projects which do not degrade natural channel morphology or river processes, or cause adverse impacts to aquatic and terrestrial wildlife ~~other specific public purpose.~~

6) Pages 53-54 -- **17E.060.460 Agriculture**

~~D. Pesticide application, aerial spraying, manure spreading within the Shoreline Jurisdiction shall not be allowed.~~

E. Farm management techniques, operation, and control methods should be utilized in accordance with the guidelines and standards of the Soil Conservation Natural Resources Conservation Service.

F. Agricultural use currently within the Shoreline Jurisdiction shall not extend farther waterward of existing activities.

G. This section shall not be construed or applied in a manner that requires modification of and/or limits agricultural activities on land designated as agriculture in the Comprehensive Plan as of the date of the adoption of this SMP.

H. New agricultural activities on land designated as agriculture in the Comprehensive Plan but not presently used for agricultural purposes, conversion of agricultural lands to other uses, and development not meeting the definition of agricultural activities shall comply with the entire SMP.

**6) 17E.060.680 Shoreline Modifications Limited Use Standards**

2. Fill waterward of the ordinary high-water mark.

This regulation applies to all parts of Table 17E.060-3 that have a note [2].

Fill waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or publicly owned and/or maintained projects ~~other specific public purpose.~~ If this can be demonstrated, a shoreline conditional use permit is required.

5. Jetties, groins and weirs waterward of the ordinary-high-water-mark.

This regulation applies to all parts of Table 17E.060-3 that have a note [5].

Jetties, groins and weirs waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or

~~publicly owned and/or maintained projects~~ other specific public purpose. If this can be demonstrated, a shoreline conditional use permit is required.

7) Pages 39-40 -- **17E.060.340 Shoreline Design Review**

A. Design Review Board Process

The following are subject to the Design Review Board Process. Shoreline design review is subject to the procedures established in chapter 17G.030 SMC, chapter 17G.040 SMC and SMC 17G.060.060.

1. Shoreline development by a public agency;
2. Shoreline development on public property;
3. Shoreline development requiring a shoreline conditional use permit;
4. Other types of shoreline permits may also require review by the Design Review Board at the request of the Director.

8) Pages 87-88 -- **17E.060.800 (C) (2) Design Standards Administration**

a. Overcoming a Presumption.

A presumption that may be unsuitable for a given project may be waived if an applicant can demonstrate to the director that there is a good reason why the presumption is inappropriate. The director may approve an alternative that achieves the intent of the presumption. At the discretion of the applicant, or in rare cases, the director may refer the permit to the design review board. A referral from the director would be in those cases where the complexity of the project and/or the cumulative impacts of deviations result in the project no longer meeting the overall intent of the design standards and the comprehensive plan.