

Summary Chart Shoreline Issues and Other Relevant Regulatory Tools and Policy

Prepared for Olympia City Council Meeting, September 11, 2012

Issue	Comp Plan	Zoning Code	EDDS	Storm Water Manual	CAO	Flood Plain	SEPA	CFP	Bldg. Codes
Shoreline Uses	X	X			X ¹				
Setbacks		X							
Heights	X	X							
View Protection	X	X					X		
Sea Level Rise	X	X	X			X	X	X	
No Net Loss	X			X	X		X		
Vegetation Preservation	X	X ²			X				
Liquefaction									X
Development Review Process		X					X		
Nonconformities		X							
Vision	X								
Public Access	X	X					X		

EDDS – Engineering Development & Design Standards

CAO = Critical Areas Ordinance

SEPA – State Environmental Policy Act

CFP = City’s Capital Facilities Plan

See table below for additional information on Shoreline Issues and other regulatory approaches to addressing those issues.

¹ CAO presently applies to the shoreline, however, following adoption the CAO be incorporated into the SMP by reference.

² Technically the Tree Code

Shoreline Issue Matrix		
Issue	Shoreline Regulation	Other Regulation
Shoreline Uses	<p>Regulates uses based on potential impacts to environment, access and water dependency. The Act gives preference to water dependent uses. Only affects property within 200 feet of the shoreline or as provided by the State, “those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark.”</p> <p>In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.</p> <p>90.58 1 b)</p> <p>The Planning Commission’s proposed SMP limits uses for those properties designated as Urban</p>	<p>All property along the shoreline and the rest of the city is regulated by the City’s Zoning Regulations that dictate uses. Zoning establishes permitted uses on a zone by zone basis. All property within the City is zoned including property owned by the Port and the State although the State Capitol Campus is exempt from the City’s development regulations.</p>

	Conservancy to one unit per acre.	
Setbacks	<p>Setbacks in the SMP are measured from the ordinary high water mark. No specific setback or buffer is mandated by the State. According to the State, “vegetation conservation standards, including buffers and setbacks, should be based on local shoreline conditions. Ecology will want to see the rationale that supports your decisions.”</p> <p>The Planning Commission draft proposes a variety of setbacks based on individual reaches and shoreline use designations. These are generally between 30 and 100 feet depending on the use and the shoreline reach.</p> <p>Shoreline buffers typically are naturally vegetated areas adjacent to water bodies that protect the ecological functions of the shoreline and help to reduce the impacts of land uses on the water body, as described in the scientific literature. Buffers provide a transition between the aquatic and upland areas. SMP Handbook</p>	<p>Zoning regulations also establish minimum setbacks for buildings. Zoning setbacks are measured from the property line. Setbacks vary based on the type of zoning in place for example properties within the Urban Waterfront Zoning District that extends along much of Budd Bay have a 0 foot rear yard setback, while those in the R 4 - 8 residential zone have a 20 foot setback.</p>
Heights	Buildings within the shoreline are generally limited 20 to 35 feet per the Planning Commission’s	Zoning regulations also regulate building heights on a zone by zone basis and may

	<p>proposal. The State only addresses heights for buildings that exceed 35 and block substantial numbers of residential views and even there no specific standards are provided. (See views below.)</p>	<p>limit structures to less than 35 feet in height or allow buildings over 100 feet. In the Urban Water Front Zoning District building up to 65 feet are allowed with the possibility of two additional stories for residential uses.</p> <p>Along West Bay Drive building heights will range from 42 to 65 feet depending view impacts and type of development proposed. Any development over 42 feet shall be required to include a minimum of 20% of the usable building area for residential purposes.</p> <p>Along portions of West Bay and East Bay Drives heights are limited to protect views. 18.100.040</p>
View Protection	<p>The State protects views of the water and prohibits “issuance of permits for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas</p>	<p>The Comp Plan and land development regulations regulate views more broadly and from places and areas outside of the 200 foot shoreline. These regulations can limit building heights below 35 feet. 18.120.030 Waterfront view</p>

	<p>adjoining such shorelines, <i>except</i> where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served_” by requiring projects within 200 feet of a shoreline to go through a review and permitting process known as a substantial development permit. WAC 173-27-140</p> <p>Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary. WAC 173-26-221</p>	<p>corridors</p> <p>A. REQUIREMENT:</p> <p>On waterfront sites, provide for public view corridors of Capitol Lake and Budd Inlet. All development shall incorporate into the site and building design both territorial and immediate views for significant numbers of people from public rights-of-way. (EXCEPT: Intermittent or partial views of the water may not be deemed necessary to incorporate into the site and building design.) See Scenic Vista overlay zoning maps, which are available at the Community Planning and Development Department.</p> <p>(See also Pedestrian Streets Overlay, OMC 18.16)</p> <p>B. GUIDELINES:</p> <ol style="list-style-type: none"> 1. Locate buildings on the site and design roofs so that they do not interfere with views and vistas. 2. Design and site waterfront buildings to avoid blocking view corridors on adjacent streets that
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		point toward the water.
Sea Level Rise	<p>The Shoreline Management Act (SMA) and the Shoreline Master Program (SMP) Guidelines currently contain no explicit references to climate change or sea level rise. However, they require local jurisdictions to take into account scientific and technical information pertinent to shoreline management issues. The Guidelines require local governments use “the most current, accurate and complete scientific and technical information available” (WAC 173-26-201(2)(a). Concerns were raised through the review process about the potential impacts of sea level rise.</p> <p>The City has been evaluating potential impacts from sea level rise since 2007 and has developed detailed and advanced data and information about the potential impacts. The 30 foot setback that was proposed in the initial staff draft of the SMP was developed based on these considerations.</p>	<p>The impact of Sea Level rise is presently regulated through the City’s development review process on a project by project basis and not through the SMP. The City uses its Flood Plain Management Regulations and SEPA authority to require finish floor elevations to be raised one additional foot above flood plain elevations (two feet total). Following adoption of the Comp Plan the development regulations will likely be amended and it is probable that this issue will be included as an amendment to the Land Development Regulations.</p> <p>The City’s sea level rise data indicates that sea level rise will affect large swaths of the downtown including areas outside the 200 foot shoreline area and will likely require an area-wide and coordinated response in order to be effective. The CFP may need to be amended at some point in the future to include such a project.</p>

No Net Loss	“The existing condition of shoreline ecological functions should not deteriorate due to permitted development. The existing condition or baseline is documented in the shoreline inventory and characterization. Shoreline functions may improve through shoreline restoration.”	Not addressed in the City’s current regulations. The proposed SMP is intended to provide for no net loss of environmental function from the baseline condition documented in the Inventory and Characterization.
Vegetation Preservation	The SMP Guidelines require master programs to protect the functions provided by shoreline vegetation.	<p>The interaction between the Shoreline Management Act (SMA) and the Growth Management Act (GMA, RCW 36.70A) is complex and can be confusing. This is especially true regarding the incorporation of Critical Areas Ordinances (CAO) provisions into Shoreline Master Program (SMP) comprehensive updates.</p> <p>After Ecology approves the updated or new SMP or segment amendment, the SMP alone will provide protection for critical areas within shoreline jurisdiction.</p>
Liquefaction	The SMP does not address liquefaction.	Liquefaction is addressed through the city’s building permitting process. Applicants for building permit are required to demonstrate that their project complies with the International Building Code requirements for seismic and structural

		integrity. This is accomplished through the submittal of technical reports and engineering plans prepared by licensed professional engineers and geologists.
Development Review Process	The Planning Commission’s proposed SMP requires a conditional use permit to be granted by The Dept. of Ecology for certain uses within the shoreline in addition to the City’s Substantial Development Permit.	Projects within 200 feet of the shoreline presently require a shoreline substantial development permit and land use approval. The hearing examiner holds the public hearing for these actions.
Nonconformities	<p>90.58.620</p> <p>New or amended master programs – Authorized provisions.</p> <p>(1) New or amended master programs approved by the department on or after September 1, 2011, may include provisions authorizing:</p> <p style="padding-left: 40px;">(a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density;</p> <p>The various regulations contained within the SMP can create non-conformities such as buildings that do not meet required setbacks or exceed height</p>	<p>The Zoning Regulations Address nonconforming buildings, structures and uses. Any building or structure that does not meet the criteria in section 18.37.040 (B) and is nonconforming as to development/building coverage, yard, building setback, height, open space or density provisions of the use district in which it is located, may be enlarged or remodeled if such alterations do not contribute to further nonconformity. To the extent practical and feasible, any such alteration shall bring the building or structure into closer conformance with the provisions of this title.</p>

	<p>limitations. The draft SMP states that:</p> <p>Nonconforming Building or Structure: A building or structure or portion thereof, whether lawfully or unlawfully erected, altered or maintained, which does not conform to the requirements of this Program.</p> <p>Nonconforming Use: An activity in a structure or on a tract of land which because of the application of this Program no longer conforms with the provisions of this Program. Nonconforming uses can only be expanded or resumed if a conditional use is granted.</p> <p>The PC draft addresses nonconformities, “In the event that a structure or building that does not conform to the shoreline setback is 50 percent or more destroyed by fire, explosion, act of God or act of public enemy, and the structure cannot be restored on the same footprint due to the application of shoreline and zoning setbacks, the property owner may seek an administrative variance to restore the portion of the legally established structure or building that encroached on the setback in the same location. “</p>	<p>In the event that a nonconforming structure or building is less than fifty (50) percent destroyed by fire, explosion, act of God or act of public enemy, nothing in this title shall prevent the securing of building permit within six (6) months from the date of destruction for the restoration of said structure.</p>
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<p>Vision</p>	<p>The vision for the SMP is provided by the State through the Shoreline Management Act and implementing guidelines found in the Washington Administrative Code. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.</p> <p>"Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies</p>	<p>The Comprehensive Plan is intended to be an aspirational document and to form and support the implementation of the community's long term vision through the implementation of development regulations and capital facilities plans. The Goals and policies of the updated SMP will become part of the Comp Plan. "The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning. Further, the legislature finds that it is in the public interest that economic development programs be shared with communities</p>
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	<p>enunciated in RCW <u>90.58.020</u>. "Comprehensive master program update" means a master program that fully achieves the procedural and substantive requirements of the department guidelines effective January 17, 2004, as now or hereafter amended;</p>	<p>experiencing insufficient economic growth.</p> <p>(4) "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.</p> <p>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 <u>36.70A.040</u>. “</p>
<p>Public Access</p>	<p>The Shoreline Management Act identifies public access as one of the key objectives of the Act. Increase public access to publicly owned areas of the shoreline. The proposed SMP requires public access for residential developments of more than 9 lots or dwellings, commercial and industrial developments and shoreline development proposed by a port, state or public utility district among other regulations.</p>	<p>State Law requires that a city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless...35.79.035.</p> <p>The existing development regulations Street ends abutting the water shall be preserved to provide views of and public access to the water, pursuant to Section 12.16.050(D) OMC.</p>

		<p>See also Chapter <u>18.100</u> for Downtown design guidelines for Pedestrian Access and View Corridors and Waterfront Public Access; Chapter <u>18.100</u> for Port Peninsula design guidelines for Pedestrian Connections and View Corridors; Section 18.06.100(A)(2)(c) for West Bay Drive building height and view blockage limits; and Chapter 18.100 for West Bay Drive view corridors.</p> <p>18.150 makes no specific mention of the shoreline. Incorporate pedestrian access into the site plan where pedestrian access exists and where site security is not in questions.</p> <p>18.120.120 Waterfront public access</p> <p>A. REQUIREMENTS: On waterfront sites used for commercial, residential, or recreational uses, incorporate shoreline public access pursuant to the goals of the Shoreline Management Act in a manner roughly proportionate to the impact created by the development.</p>
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		<p>B. GUIDELINES:</p> <ol style="list-style-type: none">1. Provide a water-edge trail and view corridors.2. Provide public access to the water-edge trail and/or view corridors.3. Provide necessary improvements appropriate to these facilities, such as signage, seating, and lighting.
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