



# Meeting Agenda

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

---

Tuesday, July 21, 2015

7:00 PM

Council Chambers

---

**1. ROLL CALL**

**1.A ANNOUNCEMENTS**

**1.B APPROVAL OF AGENDA**

**2. SPECIAL RECOGNITION**

**2.A** [15-0736](#) Introduction of Kellie Purce Braseth, Strategic Communications Director

**3. PUBLIC COMMUNICATION**

*(Estimated Time: 0-30 Minutes) (Sign Up Sheets are Provided in the Foyer)*  
*During this portion of the meeting, citizens may address the Council regarding only items related to City business, including items on the Agenda, except on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or where the public testimony may implicate a matter on which the Council will be required to act in a quasi-judicial capacity. Individual testimony is limited to three minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the Council will refrain from commenting on individual testimony until all public comment has been taken. The City Council will allow for additional testimony to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.*

**COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)**

**4. CONSENT CALENDAR**

*(Items of a Routine Nature)*

**4.A** [15-0704](#) Approval of July 7, 2015 Study Session Minutes

Attachments: [Minutes](#)

**4.B** [15-0705](#) Approval of July 7, 2015 City Council Meeting Minutes

Attachments: [Minutes](#)

**4.C** [15-0353](#) Approval of 2015 Municipal Art Plan

Attachments: [2015 Municipal Art Plan](#)  
[Minutes](#)

**4.D** [15-0524](#) Approval of Interlocal Agreement with the City of Lacey for Operation and Maintenance of Woodland Creek Groundwater Recharge Facility

**Attachments:** [Interlocal Agreement](#)

4.E [15-0695](#) Approval of Washington Department of Ecology Grant Proposals

4.F [15-0700](#) Approval of Interlocal Agreement with Puyallup City Jail.

**Attachments:** [Interlocal Agreement](#)

4.G [15-0697](#) Adoption of a Resolution Appointing Pro and Con Committees for the Metropolitan Park District Proposition

**Attachments:** [Resolution](#)

#### 4. SECOND READINGS

4.H [15-0650](#) Approval of Ordinance Amending Olympia Municipal Code 18.04.060.N Regarding Multi-Family Housing

**Attachments:** [Proposed Ordinance](#)

[Map of City's RM18 Zones \(affected areas\)](#)

[Map of City's RMU Zone \(affected area\)](#)

[OPC Public Comments](#)

4.I [15-0678](#) Approval of Ordinances Creating an Olympia Metropolitan Park District and Authorizing a Metropolitan Park District Interlocal Agreement

**Attachments:** [Ordinance Creating Olympia MPD](#)

[7-16-15 Revised Ordinance Authorizing Interlocal Agreement](#)

[7-7-15 Ordinance Authorizing Interlocal Agreement](#)

[Questions from July 7, 2015 Council Meeting](#)

#### 4. FIRST READINGS

4.J [15-0655](#) Approval of an Ordinance Revising Zoning of the LOTT Wastewater Treatment Facility and Associated Maps, and Other Housekeeping Changes that Reflect Prior Council Actions

**Attachments:** [Ordinance](#)

[LOTT Rezone Info](#)

[LOTT Alliance Letter](#)

5. PUBLIC HEARING - None

6. OTHER BUSINESS

6.A [15-0719](#) Consider the Department of Ecology's Required and Recommended Changes to the City's Shoreline Master Program.

**Attachments:** [Chart of Changes with Staff Comments](#)

[Shoreline Master Programs](#)

[SMP Final Draft](#)

- 6.B**     [15-0734](#)     Approval of an Option to Purchase Real Estate Owned by D.R. Horton, an Approximate 74 Acre Parcel Commonly Known as Trillium/Ashton Woods

**Attachments:**   [Option to Purchase - Ashton Woods](#)

[Map](#)

- 6.C**     [15-0735](#)     Oral Report - Update from the Mayor and Mayor Pro Tem on Status of the Convening Committee and Charter

## **7.        CONTINUED PUBLIC COMMUNICATION**

*(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)*

## **8.        REPORTS AND REFERRALS**

### **8.A       COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS**

### **8.B       CITY MANAGER'S REPORT AND REFERRALS**

## **9.        ADJOURNMENT**

*The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Secretary at 360.753-8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.*



City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8447

## City Council

### Introduction of Kellie Purce Braseth, Strategic Communications Director

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 2.A  
**File Number:** 15-0736

---

**Type:** recognition **Version:** 1 **Status:** Recognition

---

#### **Title**

Introduction of Kellie Purce Braseth, Strategic Communications Director

#### **Recommended Action**

##### **City Manager Recommendation:**

Welcome Kellie Purce Braseth as Olympia's new Strategic Communicatins Director

#### **Report**

##### **Presenter(s):**

Steve Hall, City Manager, 360.753.8447

#### **Background and Analysis:**

Kellie is the newest member of the City's Executive Team. She comes to the City from a 20-year career with South Puget Sound Community College, most recently as Dean of College Relations and Communications.



City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8447

## City Council

### Approval of July 7, 2015 Study Session Minutes

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.A  
**File Number:** 15-0704

---

**Type:** minutes **Version:** 1 **Status:** Consent Calendar

---

**Title**  
Approval of July 7, 2015 Study Session Minutes



# Meeting Minutes - Draft

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

---

**Tuesday, July 7, 2015**

**5:30 PM**

**Council Chambers**

---

### Special Study Session

#### 1. ROLL CALL

**Present:** 7 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer, Councilmember Jeannine Roe and Councilmember Cheryl Selby

#### 2. BUSINESS ITEM

##### 2.A [15-0574](#) Pavement Management Priorities

Transportation Director Mark Russell reviewed the pavement condition ratings throughout the City, pavement conditions and expenditures, rating by street type, the downtown paving priorities for the next 5-7 years, a new approach to funding, and future opportunities.

Councilmembers asked clarifying questions and thanked staff for a great presentation.

**The work session was completed.**

#### 3. ADJOURNMENT

The meeting adjourned at 6:11 p.m.



City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8447

## City Council

### Approval of July 7, 2015 City Council Meeting Minutes

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.B  
**File Number:** 15-0705

---

**Type:** minutes   **Version:** 1   **Status:** Consent Calendar

---

**Title**

Approval of July 7, 2015 City Council Meeting Minutes



# Meeting Minutes - Draft

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

---

**Tuesday, July 7, 2015**

**7:00 PM**

**Council Chambers**

---

### 1. ROLL CALL

**Present:** 7 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer, Councilmember Jeannine Roe and Councilmember Cheryl Selby

### 1.A ANNOUNCEMENTS

Mayor Buxbaum noted the Council met in Study Session earlier to discuss pavement management.

Mayor Buxbaum recognized Cathie Butler for her 19 years of service to the City.

### 1.B APPROVAL OF AGENDA

**The agenda was approved.**

### 2. SPECIAL RECOGNITION

#### 2.A [15-0671](#) Special Recognition - Memorandum of Understanding with Coalition of Neighborhood Associations

Mayor Buxbaum remarked about the City's relationship with the Coalition of Neighborhood Associations (CNA). CNA President Phil Schulte recognized Councilmember Hankins, Mayor Buxbaum, Leonard Bauer, and Steve Hall for their contributions to the partnership.

**The recognition was received.**

#### 2.B [15-0672](#) Special Recognition - 2015 Fire Ops

IAFF Local 468 President Mike Simmons reviewed the training program and shared pictures taken during the recent Fire Ops 101 event.

**The recognition was received.**

### 3. PUBLIC COMMUNICATION

City Manager Steve Hall provided an update on the May 21 officer-involved shooting and read a July 2 press release which noted the investigation report is expected to be available in August.

The following citizens spoke: Harry Branch, Zena Hartung, Franz Kilmer Shoultz, David Howell, Arch Bishop Rivers, Brian Faller, Jim Reeves, Ronald Nesbitt, Allen Miller, Jerry Reilly, Debra Jaqua, Max Myrick, Vida Zvirzdys-Farler, Cristiana Figueroa, Deborah Vinsel, Jae Townsend, and Holly West.

### **COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)**

Councilmember Cooper referenced the list of demands presented tonight regarding the May 21 officer-involved shooting and asked that the list be included in the discussion with the advisory group the Mayor and Mayor Pro Tem are in the process of forming. Mayor Buxbaum indicated work would continue as outlined in the memo Council agreed to look at.

**Councilmember Cooper moved, seconded by Mayor Pro Tem Jones, to waive attorney client privilege for the legal memorandum directed to the Olympia City Council dated June 9, 2015 from the City's Bond Counsel, Nancy Neraas of the law firm of Foster Pepper PLLC, with an opinion on the ordinance from the Coalition of Parks Advocates presented to the City Council several weeks earlier. The motion carried by the following vote:**

**Aye:** 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

## **4. CONSENT CALENDAR**

**4.A** [15-0681](#) Approval of June 16, 2015 City Council Meeting Minutes

**The minutes were adopted.**

**4.B** [15-0652](#) Approval of June 20, 2015 Special Council Meeting Minutes for the Mid-Year Retreat

**The minutes were adopted.**

**4.C** [15-0680](#) Bills and Payroll Certification

Claim check numbers 3660892 through 3662176: Total \$6,355,054.46; and payroll check numbers 87836 through 87964 and direct deposit transmissions: Total \$5,844,506.02.

**The decision was adopted.**

**4.D** [15-0653](#) Approval of Memorandum of Understanding with the Coalition of Neighborhood Associations

**The contract was adopted.**

**4.E** [15-0548](#) Approval of the Draft Program Year 2015 Community Development

## Block Grant Action Plan

**The decision was adopted.**

- 4.F**     [15-0573](#)     Approval of Bid Award for 2015 Pavement Preservation (Chip Seal) Project

**The decision was adopted.**

- 4.G**     [15-0609](#)     Approval of Downtown Alley Lighting and Access License Agreements

**The contract was adopted.**

- 4.H**     [15-0662](#)     Approval of Response to Sub-Area A Project Initiation Letter

**The decision was adopted.**

#### **4. SECOND READINGS**

- 4.I**     [15-0285](#)     Approval of Ordinance Amending OMC Chapters 12, 14, 16, 17 and 18 Related to Project Review and Decisions by the Site Plan Review Committee

**The ordinance was adopted on second reading.**

- 4.J**     [15-0383](#)     Approval of an Ordinance to Vacate a Portion of an Alley Right-of-Way Adjacent to 600 Franklin Street SE

**The ordinance was adopted on second reading.**

- 4.K**     [15-0454](#)     Approval of Ordinance Vacating a Portion of Alley Right-of-Way Adjacent to 1919 Harrison Avenue NW

**The ordinance was adopted on second reading.**

- 4.L**     [15-0591](#)     Approval of an Ordinance Amending Olympia Municipal Code 18.58.060 and 18.72.170 Related to the Timing of Review of Zoning Map Amendment (Rezone) Applications

**The ordinance was adopted on second reading.**

#### **4. FIRST READINGS**

- 4.M**     [15-0650](#)     Approval of Ordinance Amending Olympia Municipal Code 18.04.060.N Regarding Multi-Family Housing

**The ordinance was approved on first reading and moved to second reading.**

**Approval of the Consent Agenda**

**Councilmember Langer moved, seconded by Councilmember Hankins, to**

**adopt the Consent Calendar. The motion carried by the following vote:**

**Aye:** 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

**5. PUBLIC HEARING - None**

**6. OTHER BUSINESS**

**6.A** [15-0657](#) Approval of the Community Renewal Area Request for Proposal Document

CP&D Director Keith Stahley introduced the City's new Economic Development Director Renée Sunde.

Mr. Stahley reviewed the Water Street redevelopment area, including context, relationships, and project area. He reviewed highlights of the Request for Proposal (RFP) and the revised timeline with selection of respondent(s) to enter into negotiations in late November.

Staff and Council agreed to be mindful of what goes on the isthmus.

**Council directed staff to proceed with the RFP process as presented.**

**6.B** [15-0685](#) Discussion about Work Plan Priorities for Thurston Regional Planning Council

Mayor Pro Tem Jones noted TRPC is having a retreat this weekend and would like each agency to bring forward three high priority concerns. He distributed his list of three work plan priorities, including

1. Continue commitment to growth management and contain sprawl, control the costs of service delivery, and protect the priceless resources of farm, timber, and wild lands.
2. Support growth management by creating financial feasibility for outlying areas through the development of basic agricultural infrastructure such as processing and distribution systems.
3. Regional water resource management.

Councilmembers agreed to these three priorities.

**The discussion was completed.**

**6.C** **15-0678** Proposed Ballot Measure to Create Olympia Metropolitan Park District

Councilmember Cooper reviewed the positive attributes of a MPD and the goals of the MPD which includes more money for parks acquisition, repair, and major maintenance. He also reviewed the ongoing public process which has taken place to

date, and how the MPD will benefit parks. He noted community support has been phenomenal. He noted if the ordinance is passed, this will go on the November 3 ballot, with funds not being available until 2017.

Questions and concerns:

- What is the relationship between the Parks and Recreation Advisory Committee (PRAC) and the OMPD Advisory Committee.
- Concerned about this new advisory committee
- PRAC recommended a MPD. Many cities have set up an advisory committee.
- This is the right time to move forward with a MPD.
- What is essential government and does this meet an essential need.
- Can our neighbors easily understand to vote for or against - do they have enough information to make an informed decision. No, there are too many questions
- Does this provide the community with flexibility it needs to meet all its essential needs.
- Should get this in front of the voters
- The MPD Advisory Committee has not been worked out as to how it relates to the Park Plan and PRAC
- Hands were tied by prior councils. Don't want to put future councils in that position.
- The Parks Plan allows choices to be made - this should come first.
- Put on ballot next February or April.
- What will be purchased if we have an MPD and what are the consequences if we don't have an MPD
- Concern about creating a super alliance on property tax.
- How will we address the other issues that are presenting themselves in what is a severely constrained resource environment, such as body cameras for police.
- What are the revenue options.
- We need more time to build consensus.

Councilmember Cooper said he would bring these questions to the Coalition of Parks Advocates (COPA).

**Mayor Pro Tem Jones moved, seconded by Councilmember Selby, to approve the Metropolitan Park District ordinances as presented on first reading, place the creation of the Metropolitan Park District on the ballot for November 3, 2015, and forward the ordinances to second reading on the July 21, 2015 Consent Calendar. The motion carried by the following vote:**

- Aye:** 4 - Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Roe and Councilmember Selby
- Nay:** 3 - Mayor Buxbaum, Councilmember Hankins and Councilmember Langer

## 7. CONTINUED PUBLIC COMMUNICATION

## 8. REPORTS AND REFERRALS

## 8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmember Cooper asked to refer the Moxlie Creek conversation brought up under Public Communications to the Land Use and Environment Committee. Council agreed.

## 8.B CITY MANAGER'S REPORT AND REFERRALS

Mr. Hall reported that TEDX would like to come to The Washington Center in September and is asking the City to reimburse them up to \$6,000 for expenses since the current year Lodging Tax deadline was last fall.

**Councilmember Cooper moved, seconded by Councilmember Roe, to fund this request from 2015 Council Goal money. The motion carried by the following vote:**

**Aye:** 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

Mr. Hall read the proclamation recognizing Cathie Butler. Ms. Butler accepted it and commented on her work over the past 19 years.

## 9. EXECUTIVE SESSION

[15-0686](#) Executive Session Pursuant to RCW 42.30.110 (1)(b) - Real Estate Matter

Mayor Buxbaum recessed the meeting at 10:43 p.m. to Executive Session to discuss a real estate matter. He stated no decisions will be made, the Executive Session will last no longer than 60 minutes, and the Council will adjourn directly from the Executive Session. Staff in attendance included the City Manager, City Attorney, Parks, Arts and Recreation Director, Public Works Director, and the CP&D Director.

The Executive Session adjourned at 11:58 p.m.

**The executive session was held and no decisions were made.**



## City Council

### Approval of 2015 Municipal Art Plan

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.C  
**File Number:** 15-0353

---

**Type:** decision **Version:** 3 **Status:** Consent Calendar

---

#### **Title**

Approval of 2015 Municipal Art Plan

#### **Recommended Action**

##### **Arts Commission:**

Accept the 5-year Municipal Arts Plan as submitted and authorize the Commission and staff to proceed with the 2015 list of projects and activities.

##### **General Government Committee:**

Same as Arts Commission.

##### **City Manager Recommendation:**

As recommended by the Olympia Arts Commission and the Council's General Government Committee, move to accept the 5-year Municipal Arts Plan as submitted and authorize the Commission and staff to proceed with the 2015 list of projects and activities.

#### **Report**

##### **Issue:**

The Municipal Art Plan presents proposed projects for 2015 that would draw from the Municipal Art Fund. In addition, the plan lays out a 5-year horizon for future public art projects. Similar to the City's Capital Facilities Plan, subsequent year projects will need Council approval when they are the first year of the Municipal Art Plan.

##### **Staff Contact:**

Stephanie Johnson, Arts & Events Program Manager, Olympia Parks, Arts & Recreation, 360.709.2678.

##### **Presenter(s):**

None - Consent item.

##### **Background and Analysis:**

The Municipal Art Plan is a planning document for public art projects. There has not been a Municipal Art Plan (MAP) submitted since 2009, due to a moratorium on new public art projects, which has since been lifted.

Arts Commission Chair Marygrace Jennings met with the General Government Committee on April 28, 2015, to initiate discussion about the MAP and the projects proposed for 2015, which include:

- Traffic Box Wrap Public Art
- Music Out Loud - Artwork
- Percival Plinth Project
- Westside tree guard completion
- Master Plan for City Gateways Public Art Project
- City Hall Rotating Exhibit Support

Following a subsequent meeting on July 15, General Government expressed unanimous support for the 2015 projects, and recommended forwarding the item to the next Council meeting on the Consent Calendar.

**Neighborhood/Community Interests (if known):**

The plan proposes projects across the City, and the community will have the opportunity to participate in the process as individual projects move forward.

**Options:**

1. Accept the 5-year Municipal Arts Plan as submitted and authorize the Commission and staff to proceed with the 2015 list of projects and activities.
2. Do not approve the Municipal Art Plan as recommended by the Arts Commission.
3. Provide direction on recommended changes to the Municipal Art Plan.

**Financial Impact:**

The attached Municipal Art Plan includes a table on proposed projects and costs. The yellow band shows the proposed items in the 2015 MAP in the amount of \$149,900.

# A Five-Year Municipal Art Plan for the City of Olympia

Introduction: Mission and Goals of the Olympia Arts Commission

1. The Municipal Art Plan: What and Why
2. Planning Public Art
3. Project List for 2015
4. Five-year Context
5. Summary Spreadsheet
6. Other Activities



Prepared by the Olympia Arts  
Commission for the Olympia City  
Council, July 2015

Campers at Olywahoo deliberate over their vote  
for the 2015 Percival Plinth Project People's Choice Award.

# **The mission of the Olympia Arts Commission is to help enrich the lives of the people of the region by making visual, performing and literary arts vital elements in the life of our community.**

The Commission's purpose is to promote and encourage public programs to further development, public awareness, and interest in fine and performing arts and cultural heritage, and to advise City Council in connection with these. The Olympia Arts Commission (OAC) was created to provide expertise regarding the visual and performing arts and cultural heritage, and to reach out within and beyond the community to expand artistic and cultural programs and services for the citizens of Olympia. (Olympia Municipal Code (OMC) 2.100.100, 2.100.110)

Supported by City staff, the OAC pursues this mission through a public art program that includes programming and events, services, outreach, education and networking, and the purchase and placement of works of art in the community.

## **1. Municipal Art Plan: What and Why**

The MAP is the annual budget and spending plan for the Municipal Art Fund, and it provides direction and accountability for the use of public resources in support of the arts.

City Ordinance calls for the OAC to "prepare and recommend to the City Council for approval a plan and guidelines to carry out the City's art program," (OMC 2.100.140) and notes that a municipal arts plan should prescribe the projects to be funded from the municipal arts fund. "*Municipal Arts Plan* means a plan outlining the City expenditures of designated funds for public art projects for a one-year period." (OMC 2.100.160)

Olympia's public art programs and purchases have historically been funded through two sources: a \$1 per Capita allocation from the City's General Fund that was initiated in 1990, and a 1% for Art set-aside for City construction projects over \$500,000 in value. Funds from these sources are deposited in a Municipal Arts Fund (MAF). \$1 per Capita funds have not been allocated to the MAF since 2009, due to the economic recession. In response to a slow economic recovery, the ability to pursue new public art projects has been restored, although the \$1 per Capita funds remain suspended.

The MAP establishes budgets for new public art projects undertaken by the City, whether in conjunction with new capital projects or independent of them. Projects range from small (less than \$15k) to major (over 50k) installations involving design teams, and may include visual, literary and performing arts.

## 2. Planning for Public Art

The OAC develops an Annual Work Plan that details program initiatives and activities of the City's art program to promote the work of local artists and the arts within our community, and for the purchase of public art (including paid performances) to enhance and enliven the community. These public art purchases are the focus of the MAP.

To develop funding projections for the MAF and budgets for individual projects, City staff reviews the Capital Facility Plan to identify projects that trigger the 1% for Art set-aside. These projects and their locations, impacts, and estimated public art budgets are initially reviewed by the Art in Public Places Committee (APP) of the OAC, and then considered by the full Commission. The Commission generates a complete project list that includes planned capital-funded purchases as well as other projects identified in the Commission's Annual Work Plan. This project list forms the core of the Municipal Art Plan, which the Commission then recommends to City Council for approval.

In developing plans for public art projects, a number of conditions and values are considered to determine the best use of available resources for the benefit of the arts and the community. As a starting point, capital project-generated funds are considered for art projects at or near the site of the construction to enhance the public improvement, or to mitigate for the impact of the improvements.

The funding for art generated by small capital projects is often too small to be very effective. In these cases, funds from multiple projects may be combined, or \$1 per Capita funds added when available, to create a viable public art project budget. Balancing opportunities for multiple small projects versus fewer, more significant projects is an important planning consideration. Combining funds can bring a significant installation of public art to a capital improvement project that is too small to generate funds on its own, but which may be desirable because of location or community access. In selecting projects and works of art, the OAC will consider how proposals accomplish the following:

- **Contribute to broad distribution of public art throughout Olympia.**  
Commissioners will consider the relative representation of art among City neighborhoods, and seek to distribute public art broadly throughout the community.
- **Provide for diverse forms of art within the public collection.**  
While every piece in the collection may not resonate for every citizen, a wide range of style, media, subjects and viewpoints will offer perspective and interest for everyone.
- **Bring new ideas, innovation, or thinking to the community.**
- **Achieve a balanced city collection that includes a strong local base but also has regional and national reach.**
- **Maintainable and safe.**
- **Well-suited to chosen site or venue.**

## 3. Project List for 2015

Together, this slate of initiatives will contribute to the creative and cultural arts in Olympia in the following ways: The following slate of projects are diverse in arts disciplines – sculpture, painting/drawing, music - and are located throughout Olympia. These investments in the arts support current and future endeavors, care for the collection we have and offer opportunity for local and

regional artists, from youth through professional, to benefit the community and change the atmosphere of our built environment.

- Supporting several facets of the arts, including music
- Pushing the arts deeper into our neighborhoods and beyond the downtown core
- Investing in the future of the arts and artists in our community
- Continuing with successful programs that are embraced by the community

Traffic Box Wrap - \$11,000 - Working in partnership with Public Works, 10 transit boxes in West Olympia will be wrapped with artwork by local artists of all ages, printed on vinyl. Designs will be made available through OlySpeaks for online voting. In 2015, 10 boxes will also be wrapped downtown, funded by Lodging Tax. Wrapping of 10 boxes on the east side of Olympia is projected in 2016. As vinyl is expected to last 3 years, wraps may be replaced in following years, depending on project evaluation.

Music Out Loud - Artwork - \$22,440 - Honoring past musicians and celebrating today's music, this project pairs artistic elements incorporated into the ground plane of several sidewalks in downtown Olympia, with a summer series of music performances. Completion of artwork is expected in early 2016.

Music Out Loud - Performance - \$6,433 - Funds to be used for three performances per three sites (9 performances total) during the summer months, once artwork is completed. Per Council direction, the first year will be a pilot project.

Percival Plinth Project - \$22,100 - This ongoing project hosts loaned sculpture (up to 15) for an exhibition of one year along Percival Landing. During the month of August the public is invited to vote for the sculpture they wish for the City to purchase.

Harrison/Black Lake Tree Guards - \$23,000 - In 2008, designs for a series of five tree guards along Black Lake Boulevard at Harrison were acquired through a selective process. The structures were never fabricated. Now the formerly vacant lot has been developed into the West Central Park, and the time seems appropriate to pursue this neighborhood-scaled project.

City Gateways - \$50,000 - 2015 will be a planning year for the Arts Commission to work with a consultant to develop a Master Plan to prepare for signature artworks at key city gateways, as called for in the City's Comprehensive Plan. The Comprehensive Plan calls for gateways that can include welcoming signage, and for the involvement of citizens, neighborhoods, and City departments and officials in shaping a "distinctive special environmental setting" for these civic gateways.

City Hall Rotating Exhibit Support - \$6000 - Install display infrastructure (exhibition stands and picture rails), to support rotating exhibits of visual art and cultural artifacts for public interest and enjoyment, inside City Hall.

(Future years) Eastside/22<sup>nd</sup> Sidewalk Project - \$43,764 - The third of three public art projects anticipated for sidewalks, this project will build off neighborhood walking experiences to tell the story of the area and encourage pedestrian use. Scheduling of this project is dependent on the Public Works schedule for completion.

#### 4. Five-Year Planning Context

The context for the 2015 project list includes the continued hold on per capita funding since 2009. In the five year period from 2005 - 2009, that fund source provided an average of \$43,000 for the arts every year. This loss of funding and the economic downturn that caused it had a chilling effect on all City spending, including that of the OAC. As we look to 2015, the budget for the arts appears healthy primarily due to the 1% for Art funds made available with the construction of City Hall.

This Municipal Art Plan will utilize all of the available funds in the next four years. If the \$1 per Capita funding is not restored, funding for the arts in Olympia will fall dramatically once the City Hall funds are spent. Restoration of the \$1 per Capita funding is vital to the creative health, vibrancy and economic growth of our City. This community investment affords the possibility to fund small grant programs, the Percival Plinth Project and new initiatives that celebrate what makes Olympia a destination and a regional center for the arts.

#### 5. Summary Spreadsheet

FIVE YEAR MUNICIPAL ART PLAN							
	2014	2015	2016	2017	2018	2019	Total
<b>INCOME</b>							
Available balance	298,850						298,850
\$1 per capita	0	50,000	0	0	0	0	50,000
Capital projects % for art	0	180,000	18,000	0	5,000	0	203,000
<b>5-year projected total</b>							<b>551,850</b>
<b>PLANNED EXPENDITURE</b>							
<b>Committed Funds</b>							
West Bay Sidewalk	14,050						14,050
<b>Proposed Projects</b>							
Traffic Box Wrap		11,000	11,000	11,000	11,000	11,000	55,000
Music Out Loud - Artwork		37,800					37,800
Music Out Loud - Performance			6,433	6,433	6,433	6,433	25,732
Percival Plinth Project		22,100	22,100	22,100	22,100	22,100	110,500
Tree Guards		23,000					23,000
Olympia Artspace Alliance			50,000				50,000
City Gateways		50,000	25,000	50,000	60,000	50,000	235,000
City Hall Rotating Exhibit Support		6,000					6,000
Eastside/22nd Sidewalk				43,764			43,764
<b>Subtotal</b>	<b>14,050</b>	<b>149,900</b>	<b>114,533</b>	<b>133,297</b>	<b>99,533</b>	<b>89,533</b>	<b>600,846</b>
<b>Balance</b>							<b>-48,996</b>

Projected 1%: Boulevard/Morse Merriman Roundabout

Projected 1%: Sidewalk Construction

\$700 x 15 plinths + \$600 admin + \$1000 new pedestal + \$10,000 purchase prize

## **6. Other Activities**

Maintenance and conservation efforts are necessary to preserve the integrity of the City's collection for the benefit of the community. Funding for conservation and maintenance is provided from interest drawn on the MAF. Commissioners visit each piece in the collection on a yearly basis, both to get to know the collection and to flag issues for staff review. Interest earned on the MAF will continue to provide a fund source for needed treatment and conservation care.

Public Works Tribute – Estimated \$5,000 - Provide casework and mounting for City-owned artwork to be installed in City Hall. In 1990, as a tribute to his co-workers, former Parks Maintenance employee Charlie Mitchell created a set of painted wood sculptures of Public Works employees in action: emerging from hatch covers, tending to solid waste and sweeping the pathway in a small green space near the city's maintenance buildings. Due to environmental deterioration, the sculptures were removed, stabilized, and readied for interior display. Cases will be fabricated to mount and house them at City Hall near Public Works offices.

sidewalks for better ADA accessibility generally in the downtown area. Committee member Hankins, who is the Council's designated liaison to the Bicycle & Pedestrian Advisory Committee, said she is concerned about losing momentum on the BPAC recommendation for better ADA accessibility between downtown Olympia and neighborhoods, particularly at Pear and Plum for use by residents at Pear Blossom Place homeless shelter and students at nearby schools. She spoke about the economic benefit for downtown Olympia of convenient and safe bicyclist and pedestrian access to downtown.

Based on staff recommendation, the Committee agreed by consensus to recommend the proposed ADA accessibility project in the State Avenue/Capitol Way area. They asked that a summary of their comments be included in the meeting minutes.

**The recommendation was discussed and closed.**

**4.B**     15-0353            Municipal Art Plan 2015

Arts Commission Chair Marygrace Jennings and Arts & Events Manager Stephanie Johnson reviewed the proposed Municipal Art Plan.

Committee members specifically discussed

- art corridors
- pre-development financial support for Artspace
- proposal to shift City Hall art budget to a City Gateways project.

Committee member Hankins expressed concern about budgeting money in 2015 for undefined Artspace pre-development costs. She questioned whether Artspace is an "art" or housing project.

Each of the Committee members said they were pleased to see the proposed funding for gateways art and signage. They asked that the Plum/Union intersection be included on the draft map.

Chair Roe suggested forwarding the Municipal Art Plan proposal to the full Council for review and discussion with a unanimous recommendation from General Government Committee except for the Artspace proposal. Committee members Hankins and Selby concurred with the suggestion.

**The recommendation was discussed and forwarded to Council for consideration at the May 26 Council meeting.**

**4.C**     15-0354            Preparation for Council's Mid-Year Retreat on June 20, 2015

Committee members agreed to recommend the following format and agenda:

**Location:** LOTT Board Room (it is available and reserved)

**Time:** 9:00 a.m. - 1:00 p.m. (working lunch included)



## City Council

### Approval of Interlocal Agreement with the City of Lacey for Operation and Maintenance of Woodland Creek Groundwater Recharge Facility

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.D  
**File Number:** 15-0524

---

**Type:** contract   **Version:** 1   **Status:** Consent Calendar

---

#### **Title**

Approval of Interlocal Agreement with the City of Lacey for Operation and Maintenance of Woodland Creek Groundwater Recharge Facility

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve and authorize the Mayor to sign an Interlocal Agreement with the City of Lacey to operate and maintain the Woodland Creek Groundwater Recharge Facility.

#### **Report**

##### **Issue:**

Whether to approve the Interlocal Agreement with the City of Lacey to operate and maintain the Woodland Creek Groundwater Recharge Facility. The Woodland Creek Groundwater Recharge Facility is a joint construction project between the cities of Olympia and Lacey. The facility mitigates surface water impacts associated with the cities' groundwater withdrawals. This agreement establishes roles and responsibilities, and the means for sharing facility operation and maintenance expenses.

##### **Staff Contact:**

Donna Buxton, Senior Program Specialist, Public Works Water Resources, 360.753.8793

##### **Presenter(s):**

N/A

#### **Background and Analysis:**

The City of Olympia and the City of Lacey established the *Interlocal Agreement between the City of Lacey and the City of Olympia for Water Rights Mitigation* (October 2008) for the purpose of developing a shared water rights mitigation strategy. Both cities have water rights to withdraw

groundwater for drinking water purposes. Because the Washington Department of Ecology (Ecology) requires the Cities to mitigate these withdrawals, the cities submitted a shared mitigation strategy to Ecology in December 2010.

When Ecology approved Olympia's and Lacey's water rights, the shared mitigation strategy was also approved. Under the strategy, the cities built a groundwater recharge facility in Lacey's Woodland Park. Reclaimed water is piped from the LOTT Clean Water Alliance Martin Way Reclaimed Water Plant to the groundwater recharge facility in Woodland Park. The groundwater recharge facility then infiltrates the reclaimed water to build up the groundwater table which supplements the Woodland Creek surface water level.

This Interlocal Agreement establishes the cities' joint ownership, cost sharing, roles and responsibilities, and other elements associated with operating and maintaining the groundwater recharge facility. The facility is jointly owned and operated by the cities. The percent of ownership was determined by the cities' relative surface water mitigation needs based on their different groundwater withdrawal rates. Olympia owns 21.7% of the facility, while Lacey owns 78.3%. Because Lacey is the majority owner and the facility is located in Lacey city limits, Lacey is the lead agency to ensure all operation and maintenance requirements are met. Both cities share the costs.

**Neighborhood/Community Interests (if known):**

None

**Options:**

- Approve the Interlocal Agreement. The necessary conditions associated with operation and maintenance of the Woodland Creek Groundwater Recharge Facility will be established.
- Decline or modify the Agreement to better meet City of Olympia needs. Staff will need to renegotiate the terms and conditions of the agreement.

**Financial Impact:**

Total maintenance cost is estimated to be \$32,700 annually. As per the agreement, Olympia will be responsible for paying Lacey 21.7% of this cost or approximately \$7,096 annually. This project is identified in the Drinking Water System Plan and is funded through the Drinking Water Capital Facility Plan.

**Attachment:**

Interlocal Agreement



# Letter of Transmittal

Date: July 1, 2015

To: City of Olympia  
Attn: Donna  
PO Box 1967  
Olympia WA 98507-1967

From: City of Lacey  
Carol Litten, City Clerk  
420 College St SE  
Lacey WA 98503

- |  |  |
|--|--|
| <input type="checkbox"/> For your review and comment       | <input type="checkbox"/> For your files and records              |
| <input checked="" type="checkbox"/> Please sign and return | <input type="checkbox"/> Please sign, <b>notarize</b> and return |
| <input type="checkbox"/> Other:                            | <input type="checkbox"/> Note special instructions below         |

Attached are two partially executed originals of the Woodland Creek Groundwater Recharge Facility Interlocal Agreement between the City of Lacey and the City of Olympia. The Lacey City Council authorized the City Manager to sign the agreement at their June 25, 2015 Council meeting.

Once the agreement is signed by Mayor Buxbaum, please return one fully executed original to the City Clerk's office. We will distribute copies to Public Works staff.

Please contact me if you have questions. Thank you.

Carol Litten  
CITY OF LACEY  
City Clerk, CMC  
420 College St SE  
Lacey WA 98503  
Desk: 360.438.2625  
[clitten@ci.lacey.wa.us](mailto:clitten@ci.lacey.wa.us)  
[www.ci.lacey.wa.us](http://www.ci.lacey.wa.us)

# Interlocal Agreement between the City of Lacey and the City of Olympia for Operation and Maintenance of the Woodland Creek Groundwater Recharge Facility

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between, the City of Olympia, a Washington municipal corporation ("Olympia"), and the City of Lacey, a Washington municipal corporation ("Lacey"), collectively referred to herein as "the Parties."

WHEREAS The Parties are expanding Group A water purveyors in the State of Washington, and

WHEREAS The Parties have planned under the Growth Management Act to accommodate future population growth within a defined boundary known as the Urban Growth Area, and

WHEREAS The Parties entered into an Interlocal Agreement for Water Rights Mitigation dated October 10<sup>th</sup>, 2008 for the purpose of proposing shared water rights mitigation included in revised water rights mitigation plans titled *City of Olympia and Nisqually Indian Tribe McAllister Wellfield Mitigation Plan, December 2010* and *City of Lacey Comprehensive Water Rights Mitigation Plan, December 2010 update*; and submitted to the Department of Ecology in December 2010, and

WHEREAS between December 19, 2011 and April 10, 2012, the Department of Ecology (DOE) approved Lacey's applications for groundwater rights and issued water right permits G2-29165, 2226 acre-feet per year (afy); G2-29304, 1000 afy; G2-30249, 600 afy; G2-30248, 1066 afy; G2-30250, 1000 afy; and G2-30251, 1500 afy, and

WHEREAS on October 21, 2011 the DOE approved Olympia's applications to transfer McAllister Springs water rights certificates 8030, 25 cubic feet per second (cfs); S2- 01105, 5.33 cfs; and Abbott Springs water right permit 10191, 10 cfs to a new well field known as McAllister Wellfield, and

WHEREAS the DOE's approval of the above water right applications and changes thereby approved the cities' proposal for mitigating surface water impacts in the Woodland Creek basin with a reclaimed water groundwater recharge facility that is described in both city's water rights mitigation plans;

WHEREAS Lacey has constructed the Woodland Creek Groundwater Recharge Facility (WCGRF), jointly owned by the Parties as indicated in *Interlocal*

*Agreement between the City of Lacey and the City of Olympia for Water Rights Mitigation, October 10, 2008*, to mitigate predicted surface water impacts to the Woodland Creek Basin associated with the water rights listed above, and

WHEREAS the WCGRF must meet requirements provided in Reclaimed Water Permit Number ST 6206,

NOW, THEREFORE, it is hereby agreed between the Parties as follows:

- 1) The Parties will work together in a cooperative manner for the purpose of mitigating predicted impacts in the Woodland Creek basin resulting from exercising the water rights covered under Lacey's and Olympia's water rights identified above. The Parties will mitigate predicted impacts to Hicks Lake, Pattison Lake, Long Lake (collectively referred to as the "Tri-Lakes") and Woodland Creek by infiltrating Class A reclaimed water at the Woodland Creek Groundwater Recharge Facility (WCGRF).
- 2) The ownership of and responsibility for the WCGRF will be held jointly by the Parties according to the pro-rata shares in Attachment "B". Lacey will maintain exclusive ownership of the physical property on which the facility is located. Olympia may make visual inspections of the publicly-accessible portions of the facility at any time. Lacey will provide Olympia access to secured portions of the facility with two working days' notice, written or otherwise.
- 3) For the purpose of this agreement, "operation and maintenance" of the WCGRF shall include all operation, maintenance, repair, and service of the following, whether by contract or otherwise: subsurface infiltration galleries, flow control valves, electronic and motorized controls, SCADA instrumentation and programming, radio communication, monitoring wells, analytical equipment/services, transmission piping, permit compliance monitoring, facility performance reporting, engineering support/services, administrative services, electrical service, and any other appurtenances necessary for the successful operation of the facility as designed.
- 4) Lacey will operate and maintain the WCGRF for the mutual benefit of the parties in a manner consistent with all applicable permits and regulations.
  - a) The Parties will jointly pay for the perpetual operation and maintenance of the WCGRF. The Parties will pay a pro-rata share of costs based on predicted depletions as defined in Attachment "B". Olympia will reimburse Lacey based on annual invoices setting forth in detail actual costs incurred. Olympia will pay its pro-rata share of undisputed items within thirty (30) days of receipt of invoices from Lacey.

- i. Upon execution of this agreement Lacey shall prepare an initial invoice for expenses incurred during the calendar year 2014. Olympia agrees to pay its pro-rata share of operation and maintenance expenses incurred by Lacey beginning January 1<sup>st</sup>, 2014.
- b) Routine operation and maintenance staff hours and expenses are estimated in Attachment "A". Lacey will notify Olympia of the need for additional or non-routine operation, maintenance, or repair work by August 1<sup>st</sup> of the preceding year. Lacey will consult with Olympia prior to scheduling any alteration or repair work to the facility that may impact its performance or capacity to infiltrate; or any other unplanned work that requires a formal competitive bidding process or qualification based selection.
- c) Lacey will be the lead agency for all work, including operation, maintenance, engineering, construction, contracting, or evaluation of the WCGRF. Lacey will consult with Olympia regarding any work not considered to be routine operation and maintenance. Olympia will not initiate any work outlined above without the prior consent of Lacey.
- d) Lacey may take immediate steps to effect emergency repairs without prior notification to Olympia where the repairs could not have been foreseen and are necessary to return the facility to an operable state, prevent/mitigate a permit violation, or to protect life and/or property. Olympia will be notified of emergency repairs within one business day.
- e) The source of Class A reclaimed water for infiltration will be the Martin Way Reclaimed Water Plant owned by the LOTT Clean Water Alliance. The parties agree to use their respective shares of reclaimed water from the Martin Way Reclaimed Water Plant to mitigate their respective predicted impacts to the Tri-Lakes and Woodland Creek. Neither party will direct these shares of reclaimed water to other uses unless the combined mitigation quantity for both parties can be met.
- f) Lacey will operate the WCGRF to ensure that mitigation of surface water impacts in the Woodland Creek basin is sufficient to support development of the cities' respective water rights listed above. The amount of reclaimed water infiltrated and the amount of water rights used will be compared annually on a volumetric basis. Each Party's pro-rata share of the 5-year rolling annual average volume of reclaimed water infiltrated will be compared to each Party's respective water rights used to determine whether mitigation is

sufficient. By January 15 of each year, Lacey will report to Olympia the monthly totals, annual total, and 5-year rolling annual average infiltration volumes for the prior calendar year at the WCGRF; Olympia will report to Lacey the total volume of water produced from the McAllister Wellfield under the water rights listed above for the prior calendar year. Mitigation credit will be assigned to each Party as a pro-rata share of the total volume infiltrated, calculated on a 5-year rolling annual average, according to the percentages provided in Attachment "B".

- g) Olympia agrees to hold Lacey harmless for inability of the facility to meet target infiltration quantities due to the unavailability of Class A reclaimed water from LOTT's Martin Way Reclaimed Water Plant, high groundwater conditions, vandalism, natural disaster, or any other condition outside Lacey's immediate control. In the event LOTT is unable to supply Class A reclaimed water for an extended period of time it may be necessary to utilize potable water from Lacey's water system as a temporary measure to achieve mitigation goals. If potable water is used in place of reclaimed water it will be subject to billing at the Tier 1 rate in effect at that time. Lacey will provide notice to, and consult with Olympia prior to the use of potable water at the facility.
  - h) Lacey will provide Olympia with a copy of the operation and maintenance manual and any revisions or amendments to it, within 30 days of being finalized.
- 5) The WCGRF was designed and constructed with the mutual understanding that the actual annual infiltration capacity of the facility cannot be fully known or guaranteed until it has been in operation for a period of several years and a historical performance record can be established. As such, the Parties acknowledge that the WCGRF, as originally constructed, may not be capable of infiltrating the full mitigation quantity necessary for both Parties. Additionally, the WCGRF was designed to operate in compliance with permits and regulations in place at the time of construction. Future permit and/or regulatory changes may necessitate facility modifications to remain compliant. In the event that the facility is found to be incapable of satisfying both Parties full mitigation requirements, or is no longer compliant with applicable permits and regulations the Parties agree that future expansion or modification of the WCGRF or other supplemental mitigation actions will be conducted jointly by the Parties and the cost burden will be distributed according to the pro-rata shares in Attachment "B". When requested by either party, the Parties agree to enter into good faith negotiations to reach agreement on additional conditions of any facility expansion, supplemental mitigation action, or other unforeseen circumstances.

- 6) This agreement is effective upon execution, and shall remain in effect as long as any mitigation requirements covered in this agreement are applicable, unless terminated or modified by mutual agreement of the Parties.
- 7) Before either party requests termination of the agreement, the Parties agree to meet and confer in good faith to modify or amend this agreement.
  - a) The Parties agree to the following Dispute Resolution Process:  
Step One – Negotiation. In the event of a dispute concerning any matter pertaining to this Agreement, the Parties involved shall attempt to adjust their differences by informal negotiation. The Party perceiving a dispute or disagreement persisting after informal attempts at resolution shall notify the other Party in writing of the general nature of the issues. The letter shall be identified as a formal request for negotiation and shall propose a date for representatives of the Parties to meet. The other Party shall respond in writing within ten (10) business days. The response shall succinctly and directly set out that Party's view of the issues or state that there is no disagreement. The Parties shall accept the date to meet or shall propose an alternate meeting date not more than ten (10) business days later than the date proposed by the Party initiating dispute resolution. The representatives of the Parties shall meet in an effort to resolve the dispute. If a resolution is reached the resolution shall be memorialized in a memorandum signed by both Parties which shall become an addendum to this Agreement. Each Party will bear the cost of its own attorneys, consultants, and other Step One expenses. Negotiation under this provision shall not exceed 90 days. If a resolution is not reached within 90 days, the Parties shall proceed to mediation.
  - b) Step Two – Mediation. If the dispute has not been resolved by negotiation within ninety (90) days of the initial letter proposing negotiation, any Party may demand mediation. The mediator shall be chosen by agreement. Each Party will bear the cost of its own attorneys, consultants, and other Step Two expenses. The Parties to the mediation will share the cost of the mediator. A successful mediation shall result in a memorandum agreement which shall become an addendum to this Agreement. Mediation under this provision shall not exceed 90 days. If the mediation is not successful within 90 days, the Parties may proceed to litigation.
  - c) Step Three – Litigation. Unless otherwise agreed by the Parties in writing, Step One and Step Two must be exhausted as a condition precedent to filing of any legal action. A Party may initiate an action without exhausting Steps One or Two if the statute of

limitations is about to expire and the Parties cannot reach a tolling agreement, or if either Party determines the public health, safety, or welfare is threatened.

8) General Conditions

- a) No separate legal entity is created by this agreement.
- b) No joint organization whatsoever is created.
- c) No common budget is to be established.
- d) This agreement shall be recorded with the Thurston County Auditor's Office or recorded on the cities' websites as provided by law.
- e) Each Party shall be responsible for its own finances and for its own personal or real property.
- f) All lawsuits whatsoever in regards to this agreement shall be brought in Thurston County Superior Court. The governing law shall be the laws of Washington State.
- g) The Contract Administrator for Olympia shall be the Director of Water Resources of the City of Olympia, Department of Public Works. The Contract Administrator for Lacey shall be Water Resources Manager of the City of Lacey, Department of Public Works.
- h) All notices with regard to this agreement shall be sent in addition to any other legal requirement to:

City of Olympia:

Department of Public Works  
Attn: Director of Water Resources  
Re: Mitigation Agreement with City of Lacey  
P. O. Box 1967  
Olympia WA, 98507

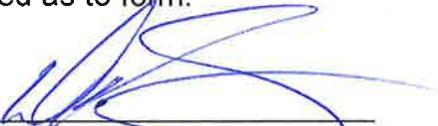
City of Lacey:

Water Resources Manager  
City of Lacey, Department of Public Works  
P.O. Box 3400  
Lacey, WA 98509

City of Lacey:

  
\_\_\_\_\_  
By: Scott Spence  
Its: City Manager

Approved as to form:

  
\_\_\_\_\_  
Dave Schneider, City Attorney

City of Olympia:

\_\_\_\_\_  
By: Steve Buxbaum  
Its: Mayor

Approved as to form:

  
\_\_\_\_\_  
Darren Nienaber  
Deputy City Attorney

**Attachment 'A'**  
**Woodland Creek Groundwater Recharge Facility**  
**Operation and Maintenance Annual Staffing and Service Contract Estimate**

Staff Hour Estimate		
Treatment Operator	168 hours	\$12,600
Control Technician	16 hours	\$1,300
Civil Engineer	24 hours	\$2,300
Water Quality Analyst	32 hours	\$3,000
Service Contracts/Materials		
Utilities		\$500
Lab/Analytical		\$5,000
Specialty Equipment Maintenance		\$3,000
Parts and Inventory		\$5,000
<b>Total</b>		<b>\$32,700</b>

---

<sup>1</sup> Dollar amounts reflect 2014 rates.

**Attachment 'B'**  
**Calculation of Mitigation Quantities for Woodland Creek/Tri-Lakes and Pro-Rata Share of Costs**

<b>PARTY</b>	<b>WATER BODY</b>	<b>MAXIMUM ANNUAL IMPACTS (CFS)</b>	<b>MITIGATION QUANTITY (CFS)</b>	<b>PRO RATA SHARE OF COSTS</b>
City of Lacey <sup>1</sup>	Woodland Creek	0.22	1.245	78.3%
	Tri-Lakes/Wetlands	0.61		
	Total Combined	0.83		
City of Olympia <sup>2</sup>	Woodland Creek	0.03	0.345	21.7%
	Tri-Lakes/Wetlands	0.20		
	Total Combined	0.23		

<sup>1</sup> Reflects City of Lacey water right applications G2-29304 (Evergreen Estates Well); G2-30249 (Betti Well); G2-29165 (Madrona Wellfield); G2-30248 (Hawks Prairie Well #2); G2-30250 (Meridian Campus); G2-30251 (Marvin Road)

<sup>2</sup> Reflects City of Olympia water right change applications 8030 and S2- 01105 (McAllister Springs) and 10191 (Abbott Springs)



## City Council

### Approval of Washington Department of Ecology Grant Proposals

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.E  
**File Number:** 15-0695

---

**Type:** decision **Version:** 1 **Status:** Consent Calendar

---

#### **Title**

Approval of Washington Department of Ecology Grant Proposals

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to authorize submittal of grant applications to Washington State Department of Ecology.

#### **Report**

##### **Issue:**

Whether to submit three storm and surface water-related grant applications to the Washington State Department of Ecology (Ecology). The grants do not require a City funding match.

##### **Staff Contact:**

Andy Haub, P.E., Water Resources Line of Business Director, 360.753.8475

##### **Presenter(s):**

Not applicable.

#### **Background and Analysis:**

Ecology announced the opening of three grant programs to assist permittees of the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater. The grants focus on improving stormwater quality. Grant applications are due July 30, 2015.

The grants are for specific projects that support implementing municipal storm and surface water management programs across the state or region. Grant funding is only awarded to cities and counties covered under the municipal Clean Water Act and NPDES stormwater permits.

City staff is prepared to submit three applications:

#### **1. Grants of Regional or Statewide Significance (GROSS)**

City Storm and Surface Water staff proposes submitting a grant application in partnership with

WSU Extension, Washington Stormwater Center (WSC) and South Puget Sound Community College (SPSCC). Grant funds would develop a comprehensive stormwater training program curriculum. The funding would be used to identify the specific training needs of municipal and county field staff in the Puget Sound region. The work effort will develop a professional training curriculum and materials for current public stormwater staff, as well as develop a college-level curriculum that could lead to an Associate Degree in Environmental Science with an emphasis on stormwater and low impact development technologies. WSU, SPSCC, and Ecology have completed considerable work on this effort over the past year. As a stormwater permitted municipality, the City of Olympia will sponsor the grant effort. If the grant is received, the City will participate in the project as a technical resource.

The grant submittal will request \$300,000. No City financial match is required.

## **2. Stormwater Pre-construction Grant Program**

Grants from this program fund design work for stormwater projects that use green retrofit principals to address stormwater issues. Staff identified three locations adjacent to neighborhood centers to develop stormwater retrofit designs. The locations are Rogers Street NW, San Francisco Street NE and Capitol Way. If grant funding is received the funds would be used to determine if and how small stormwater facilities could be designed in these areas. Constructing these projects is dependent on receiving additional grant funding.

The funding request will not exceed \$250,000. The grant does not require a City financial match.

## **3. Stormwater Capacity Grants**

Grants in this program are non-competitive and are awarded by Ecology to stormwater permitted cities and counties based on population. Funds are used to implement the Phase II Municipal Stormwater Permit, in particular stormwater system mapping. In previous years, the City has received funding from this pass-through grant program, typically between \$50,000-\$75,000.

### **Neighborhood/Community Interests (if known):**

The grants support well-established community interests in stormwater and water quality management. WSU, SPSCC and the Washington Stormwater Center are partners on the GROSS grant. Neighborhoods may be interested in the small stormwater designs grant.

### **Options:**

1. Approve the request to submit the grant applications. Grant awards will be announced in September.
2. Decline or modify the request to submit the grant applications prior to July 30, 2015. May jeopardize these work efforts moving forward.

### **Financial Impact:**

There is no match required for any of the grants. A portion of the GROSS grant may cover City administrative costs.



## City Council

### Approval of Interlocal Agreement with Puyallup City Jail.

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.F  
**File Number:** 15-0700

---

**Type:** contract   **Version:** 1   **Status:** Consent Calendar

---

**Title**

Approval of Interlocal Agreement with Puyallup City Jail.

**Recommended Action**

**Committee Recommendation:**

NA

**City Manager Recommendation:**

Move to approve and authorize the Mayor to sign the Interlocal Agreement.

**Report**

**Issue:**

The interlocal agreement allows the City of Olympia to be in compliance with the reporting requirements under the federal Prison Rape Elimination Act (PREA).

**Staff Contact:**

Laura Wohl, Administrative Services Manager, Police Department, 360.753.8214

**Background and Analysis:**

The federal Prison Rape Elimination Act (PREA) requires that jails and prisons identify a 3rd party to whom an inmate can report problems, separate from the jail and jurisdiction involved in the complaint. At the County level, the Department of Corrections is filling this role for many county jails. The Police Department seeks to contract with the Puyallup City Jail for this service and to provide reciprocal service in return.

**Options:**

Council may wish to consider instructing the Police Department to identify a different entity for receiving complaints under PREA.

**Financial Impact:**

None.

*When recorded return to:*  
City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

**INTERLOCAL AGREEMENT  
BETWEEN  
THE CITY OF OLYMPIA AND CITY OF PUYALLUP  
FOR  
PRISON RAPE ELIMINATION ACT (PREA) REPORTING**

**Whereas**, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**Whereas**, pursuant to RCW 39.34.080, each party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: provided, that such contract shall be authorized by the governing body of each party to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties;

**Whereas**, the Prison Rape Elimination Act, 42 USC §15601 (PREA), and implementation standards, require prisons to provide a means for offenders to make claims of abuse. PREA standard 28 CFR §115.51 b provides:

The agency shall also provide at least one way for inmates to report sexual abuse, sexual assault or sexual harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse, sexual assault and sexual harassment to an agency official, allowing the inmate to remain anonymous upon request;

**Whereas**, it is the purpose of this agreement to establish the process and protocols whereby an offender under the jurisdiction of one party may contact the other party to report sexual abuse, sexual assault or sexual harassment.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the City of Olympia (OLYMPIA) and the City of Puyallup (PUYALLUP) agree as follows:

**I. STATEMENT OF WORK**

Both parties shall furnish the necessary personnel, equipment, material, and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Exhibit "A" attached hereto and incorporated herein.

**II. PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of performance of this Agreement shall commence on July 1, 2015 and be perpetual, unless terminated as provided herein.

**III. PAYMENT**

This is a non-financial Agreement. Neither party shall seek compensation for work performed under this Agreement.

**IV. RECORDS MAINTENANCE**

The parties to this Agreement shall each maintain books, records, documents, and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to full access and the right of examination, inspection, review, and audit by personnel of both parties, other personnel duly authorized by either party, and by such state and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after termination, if any, of this Agreement.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. Requests for disclosure will be forwarded to the furnishing party, which shall be solely responsible for responding to records requests received about the subject matter of this Agreement. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. Each party shall be responsible to comply with its state laws and regulations regarding public access to public records.

**V. AGREEMENT ALTERATIONS AND AMENDMENTS**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

**VI. TERMINATION**

This Agreement may be terminated at any time upon 30 days' prior written notification to the other party.

**VII. ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

**VIII. WAIVER**

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing signed by an authorized representative of the party and attached to the original Agreement.

**IX. INDEMNIFICATION AND INSURANCE**

OLYMPIA and PUYALLUP each agree to defend, indemnify and hold the other, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with each entity's respective performance of its responsibilities under the Agreement, except to the extent such injuries and damages are caused by the negligence of the other.

**X. SEVERABILITY**

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end, the provisions of this Agreement are declared to be severable.

**XI. ALL WRITINGS CONTAINED HEREIN**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**XII. RECORDING**

Prior to its entry into force, this Agreement shall be filed with the Thurston County Auditor's Office or posted upon the websites or other electronically retrievable public source as required by RCW 39.34.040.

**XIII. EMPLOYMENT RELATIONSHIP**

Employees of each agency shall remain at all times under the direction and control of their original agency and the performance of work for any other agency pursuant to this Interlocal Agreement shall not change that relationship for any purpose. Neither agency shall be deemed to have agreed to pay the other agency's employees any wages or benefits afforded to its own employees. Further, each agency's responsibilities to its own employees for work place injuries shall remain unchanged by this Interlocal Agreement.

**XIV. NOTICE**

Any notice required under this Agreement shall be to the contract managers at the address listed below and shall become effective three days following the date of deposit in the United States Postal Service.

CITY OF OLYMPIA  
Attn: Jail Manager  
Re: PREA Interlocal Agreement with City of Puyallup  
PO Box 1967  
Olympia, WA 98507-1967

CITY OF PUYALLUP  
Attn: Jail Manager  
Re: PREA Interlocal Agreement with City of Olympia  
311 W. Pioneer  
Puyallup, WA 98371

**XV. COUNTERPART SIGNATURES**

This Agreement may be executed in one or more identical original counterparts, each of which is deemed an original, but all of which together shall constitute one and the same instrument. Further, each party agrees to accept signature pages communicated or delivered by electronic means as originals.

**XVI. EFFECTIVE DATE**

This Agreement shall take effect as of the date of filing or posting on the Cities' websites as required by RCW 39.34.040, whichever occurs first.

**CITY OF OLYMPIA**

**CITY OF PUYALLUP**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
(Name, Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

Approved as to form:

Darren Menaber DCA  
City Attorney

\_\_\_\_\_  
(Name), City Attorney

**EXHIBIT A**  
**STATEMENT OF WORK**

The Department of Justice issued a final rule adopting national standards to prevent, detect, and respond to prison rape, pursuant to the Prison Rape Elimination Act of 2003 (PREA). This Intergovernmental Agreement promotes compliance with these standards, specifically with PREA standard 28 CFR §115.51(b):

The agency shall also provide at least one way for inmates to report sexual abuse, sexual assault or sexual harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse, sexual assault and sexual harassment to agency official, allowing the inmate to remain anonymous upon request.

OLYMPIA and PUYALLUP will establish a means for offenders under their jurisdiction to report claims or allegations of sexual abuse, sexual assault or sexual harassment to the other party (the “receiving party”). This Intergovernmental Agreement does not convey or include within its scope authority for the receiving party to investigate those reports. The receiving party’s sole function with regard to such reports shall be to immediately forward them to the party having jurisdiction, who shall be responsible for investigating them (the “responsible party”).

Allegations reported by offenders may be done so anonymously.

OLYMPIA and PUYALLUP will work collaboratively to create a form that will be provided to offenders or may use the attached reporting form. This form will allow offenders to report and mail issues and allegations of sexual abuse, sexual assault and sexual harassment to the receiving party. Until then, the parties shall utilize the forms attached hereto. The parties may agree to use different forms without the need to amend this Intergovernmental Agreement.

The receiving party will log the report, then immediately forward the claim or allegation by scanning and emailing it to the responsible party, without regard for whether the form is apparently complete or incomplete. The responsible party shall utilize local procedures to contact the offender upon receipt of the report if needed.

Upon request or annually, the receiving party shall forward to the responsible party a copy of the log of reports received and forwarded.

Olympia Police Department, City Jail  
**Report of Prison Rape Elimination Act (PREA) Allegation  
 To an Outside Agency**

Submitted to: Puyallup Police Department  
 311 W Pioneer  
 Puyallup, WA 98371

**THIS INFORMATION MAY BE SUBMITTED ANONYMOUSLY**

Specific information regarding location is needed so prompt action may be taken.

Name:	
Date of Birth:	
Facility/Buildilng:	
Location of Incident:	
Date of Incident:	

**This allegation involves:**

Staff member(s) name:	Another inmate(s) name:
-----------------------	-------------------------

Description of allegation/incident:

**(Please provide details regarding location, people involved, witnesses, etc. as this will assist in the response and investigation process)**

Signature (optional):	Date submitted:
-----------------------	-----------------

Puyallup Police Department, City Jail  
**Report of Prison Rape Elimination Act (PREA) Allegation**  
**To an Outside Agency**

Submitted to: Olympia Police Department Internal Affairs  
P.O. Box 1967  
Olympia, WA 98507

**THIS INFORMATION MAY BE SUBMITTED ANONYMOUSLY**

Specific information regarding location is needed so prompt action may be taken.

Name:	
Date of Birth:	
Facility/Building:	
Location of Incident:	
Date of Incident:	

**This allegation involves:**

Staff member(s) name:	Another inmate(s) name:
-----------------------	-------------------------

Description of allegation/incident:

**(Please provide details regarding location, people involved, witnesses, etc. as this will assist in the response and investigation process)**

Signature (optional):	Date submitted:
-----------------------	-----------------



## City Council

### Adoption of a Resolution Appointing Pro and Con Committees for the Metropolitan Park District Proposition

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.G  
**File Number:**15-0697

---

**Type:** resolution **Version:** 1 **Status:** Consent Calendar

---

#### **Title**

Adoption of a Resolution Appointing Pro and Con Committees for the Metropolitan Park District Proposition

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee

##### **City Manager Recommendation:**

Move to appoint individuals to committees to prepare Voters' Pamphlet statements for and against a Metropolitan Park District and adopt a Resolution for transmittal to the County Auditor.

#### **Report**

##### **Issue:**

Which individuals should the City Council appoint for committees to prepare Voters' Pamphlet statements for and against the Metropolitan Park District Proposition?

##### **Staff Contact:**

Mark Barber, City Attorney, 360.753.8338

#### **Background and Analysis:**

The City Council at its July 7, 2015 regular open meeting approved an ordinance directing that a proposition be submitted to the voters for creation of a metropolitan park district.

RCW 29A.32.280 provides for the appointment of committees to prepare Voters' Pamphlet statements for and against such a proposition. Each committee is to be comprised of not more than three persons known to favor or oppose (as appropriate) the ballot proposition. The names of committee members are due to the Thurston County Auditor's office by August 4, 2015, in order to timely prepare the Voters' Pamphlet for the November 3, 2015, General Election. If the City cannot find individuals to be on the pro and con committees, the Thurston County Auditor will issue a media release to the public asking for committee members.

#### Process Selected by Council:

The names of the individuals who have volunteered for the committees will be brought to Council at its July 21, 2015, Council meeting. At the July 21<sup>st</sup> meeting, Council will decide on the makeup of the committees and those names will be added to the attached resolution, and the resolution will be passed by Council that night.

If Council does not have sufficient names to fill a committee:

If Council is unable to identify three individuals for each committee by its July 21<sup>st</sup> meeting, Council can appoint some individuals and direct the City Manager to continue to seek volunteers for the committees up to the time required for the City to submit the committee appointments to the County. If there are more than three volunteers for either of the committees, the City Manager would be directed to use a random process and choose the remaining committee members by lot. Information concerning the selected committee members would then be transmitted to the County in a letter from the City Manager. The letter would be accompanied by a resolution similar to the attached resolution. The resolution would need to have an additional "Section 3" that would direct the City Manager to use the random selection process to determine the remaining committee members.

**Neighborhood/Community Interests (if known):**

If Council does not have sufficient names to fill a committee, a news release shall be issued on July 22, 2015, and posted on the City's website informing the community of the opportunity to apply for a committee no later than July 29, 2015.

**Options:**

Provide direction to staff on the individuals to be appointed to committees to prepare Voters' Pamphlet statements for the Metropolitan Park District Proposition.

**Financial Impact:**

N/A

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO THE APPOINTMENT OF COMMITTEES TO PREPARE VOTERS' PAMPHLET STATEMENTS FOR AND AGAINST THE PROPOSITION, WHICH IS SCHEDULED TO APPEAR ON THE NOVEMBER 3, 2015, GENERAL ELECTION BALLOT, CONCERNING THE POTENTIAL FORMATION OF A METROPOLITAN PARK DISTRICT.**

WHEREAS, the City Council of the City of Olympia, Washington (the "City") has determined that it is in the interest of the City and its residents to submit a proposition to the voters, concerning the potential formation of a metropolitan park district on November 3, 2015; and

WHEREAS, RCW 29A.32.280 provides for the preparation of statements for and against each local ballot measure by committees of not more than three persons each, composed of persons known to favor or oppose (as appropriate) the ballot proposition;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

**Section 1.** In accordance with RCW 29A.32.280, the arguments advocating approval of the Proposition concerning the potential formation of a metropolitan park district in the City of Olympia, shall be prepared by the following persons, who shall comprise the "Statement For" committee:

**"Statement For" Committee:**

Name

1. Cristiana Figueroa-Kaminsky
2. Gerald Reilly
3. Jim Cooper

**Section 2.** In accordance with RCW 29A.32.280, the arguments advocating disapproval of the Proposition concerning the potential formation of a metropolitan park district in the City of Olympia, shall be prepared by the following persons, who shall comprise the "Statement Against" committee:

**"Statement Against" Committee:**

Name

- 1.
- 2.
- 3.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, AT A REGULAR OPEN PUBLIC MEETING this 21st day of July 2015.**

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY



## City Council

### Approval of Ordinance Amending Olympia Municipal Code 18.04.060.N Regarding Multi- Family Housing

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.H  
**File Number:** 15-0650

---

**Type:** ordinance **Version:** 2 **Status:** 2d Reading-Consent

---

#### **Title**

Approval of Ordinance Amending Olympia Municipal Code 18.04.060.N Regarding Multi-Family Housing

#### **Recommended Action**

##### **Planning Commission Recommendation:**

Approve an amendment to Olympia Municipal Code (OMC) 18.04.060.N, which would reduce from 10 to 5 acres the threshold for requiring that multi-family projects in the RM-18 and RMU zoning districts include a variety of housing types (not more than 70% of any one housing type) (Option 1.) (**attachment 1**)

##### **City Manager Recommendation:**

As recommended by the Olympia Planning Commission, move to approve an amendment to Olympia Municipal Code (OMC) 18.04.060.N, which would reduce from 10 to 5 acres the threshold for requiring that multi-family projects in the RM-18 and RMU zoning districts include a variety of housing types (not more than 70% of any one housing type) (Option 1.) (**attachment 1**)

#### **Report**

##### **Issue:**

For consistency with the Comprehensive Plan (updated December 2014), Land Use Policy PL16.12, consider a development code amendment pertaining to multi-family (apartment) housing requirements. This amendment would reduce from 10 to 5 acres the threshold for requiring that multi-family projects in Multi-family Residential 18 units per acre (RM-18) and Residential Mixed Use (RMU) zoning districts include a variety of housing types (not more than 70% of any one housing type).

##### **Staff Contact:**

Amy Buckler, Senior Planner, 360.570.5847

##### **Background and Analysis:**

The background and analysis have not changed from first to second reading.

Washington's Growth Management Act requires that cities like Olympia adopt, "development

regulations that are consistent with and implement the comprehensive plan.” As part of Olympia’s Comprehensive Plan Update (adopted December 2014), the following policy was analyzed and changed from a 10 acre to a 5 acre threshold for requiring “variety of housing types:”

PL16.12: Require a mix of single-family and multi-family structures in villages, mixed residential density districts, and apartment projects when these exceed five acres; and use a variety of housing types and setbacks to transition to adjacent single-family areas.”

NOTE: For reference, the Olympia City Hall block is approximately 1.25 acres in size.

The purpose of the policy change was to address public concerns about large-scale apartment projects and how these may detract from goals of diverse and attractive neighborhoods. The proposed amendment would implement the updated policy and provide consistency with the Comprehensive Plan.

### AREAS AFFECTED

Policy PL16.12 states that it applies to “villages, mixed residential density districts, and apartment projects.” Staff and the Planning Commission found the only sections of code that need to be amended for consistency with the Comprehensive Plan are **Residential Mixed Use (RMU)** and **Residential Multi-family 18 Units per Acre (RM-18)**, which are addressed in OMC 18.04.060N.

### SUMMARY OF OMC 18.04.060.N:

- Requires properties in the RM-18 and RMU zones that meet a certain threshold to provide a mix of housing types, so that no more than 70% of the dwellings are of a single type (i.e., single family detached, duplex, triplex, townhouses or multi-story apartment building.)
  - Current threshold is 10 acres.
  - Proposal is to change this threshold to 5 acres.
- In the RM-18 zone, multi-family housing projects are required to locate single-family or duplexes around the perimeter of the development (one lot deep) to provide a transition from apartment to single-family dwellings, when the new development is across the street and visible from existing detached single-family homes.
  - Currently not proposed to change.

### IMPLICATIONS OF PROPOSED CHANGE

Real properties subject to this potential code change are parcels with the following characteristics:

- Zoned Residential Multi-Family 18 Units per Acre (RM-18)
- 5+ acre in size
- *Although the Code provisions in the RMU zone would be affected, at this time there are no lots 5+ acre in size within the RMU zone.*

Other implications of the proposed amendment:

- Would affect approximately 12 properties at time of permit application.
- May increase the perceived attractiveness of neighborhoods, as the required mix would reduce the amount of land devoted to large-scale uniform apartment structures.
- On parcels 5+ acre in size where there is no abutting single-family, a mix of housing types

would be required. Without the amendment, up to 100% of the development could be apartments.

- May result in little or no change under certain circumstances: Under a separate provision, parcels abutting single-family uses or zoning are required to build single-family structures along the border of the development (one lot deep) as opposed to apartments. Thus, in cases where such buffering is already required, this proposal may not result in a substantive change, since the buffer requirement may already cause a certain percentage of mixed housing.
- Potentially more townhome development. Townhomes are the most likely housing type to be used to provide a mix with apartments due to the City's current incentives for townhome development; including that the required lot size is smaller.
- The amendment may make it more difficult to achieve maximum densities since 30% of the units could not be apartments. This could increase the cost of some housing, if designers need to include costly solutions to meet desired density.

PLANNING COMMISSION/ SEPA PROCESS:

- The Planning Commission (OPC) was briefed regarding this potential amendment on August 19, 2013.
- OPC had a public hearing on February 10, 2014, and held the written record open until February 17, 2014 at 5:00pm.
- OPC deliberated on February 25, 2014 and April 21, 2014; on the latter date forwarded their recommendation to City Council
- A State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on March 25, 2014, with a comment period ending April 15, 2014. No appeals were received

The Planning Commission discussed the implications of the proposed change. There was some concern that the amendment would result in another layer of regulation, making it more difficult for developers to design projects to meet the standards.

Commissioner Parker moved, seconded by Commissioner Bardin, to recommend the City Council change Olympia Municipal Code 18.04.060.N to reduce from 10 acres to five acres the threshold for requiring multi-family projects in the RM-18 and RMU zoning districts include a variety of housing types (not more than 70% of any single type). The motion carried by a majority vote.

Yay: 6 - Commissioners Parker, Bardin, Bateman, Horn, Hoppe and Richmond

Nay: 3 - Commissioner Watts, Chair Brown and Vice Chair Andresen

RATIONALE FOR NOT PROPOSING CHANGES TO OTHER 'APARTMENT' ZONES:

Under current zoning regulations, PL16.12 could apply to:

1. Villages (master planned developments, such as Briggs or Woodbury Crossing)
2. Mixed residential zones
  - Residential Mixed Use 7-13 Units per Acre (MR 7-13)
  - Residential Mixed Use 10-18 Units per Acre (MR 10-18)
  - **Residential Mixed Use (RMU)**
3. Those which allow multi-family housing (3 or more units)

- **Residential Multi-family 18 Units per Acre (RM-18)**
- Residential Multi-family 24 Units per Acre (RM-24)
- Residential Multi-family High Rise (RM-H)
- Urban Residential (UR)

**Of the above listed zones, staff and the Planning Commission did not consider recommending amendments to the following because:**

- Olympia's '**Villages**' are specifically selected geographical areas, and all have approved master plans that are in various stages of development. Those plans were guided by a specific set of village regulations in Olympia Municipal Code (OMC) 18.05, which provides specific criteria for mix of housing types.
- **RM 7-13 and RM 10-18** have their own specific criteria for mixed housing types, in OMC 18.04.040.Q. These respectively require 65-75% and 35-75% of the housing to be single-family dwellings and other criteria.
- The **RM-24** zone has an *average* density of 24 units per acre, with a minimum density onsite of 18 units per acre. Past review of mixed housing for this zone found it would exceedingly difficult to achieve the required densities along with the City's parking, height and other requirements. This zone is really intended to build with multi-family housing.
- The only area zoned **RM-H** is part of the State Capitol Campus, for which the land use designation in the Comprehensive Plan was updated to "Planned Development" and the zoning may be amended accordingly.
- By definition, the **UR zone** means, "to accommodate multifamily housing *in multistory structures* in or near the State Capitol Campus ..." Plus, the existing parcel sizes in this zone render it not applicable anyway.

**Neighborhood/Community Interests (if known):**

Public comments received by the Planning Commission are included in **attachment 4**.

**Options:**

- Option 1:** Move to approve an amendment to Olympia Municipal Code (OMC) 18.04.060.N, which would reduce from 10 to 5 acres the threshold for requiring that multi-family projects in the RM-18 and RMU zoning districts include a variety of housing types (not more than 70% of any one housing type) (Option 1.) (**attachment 1**)
- Option 2:** No change: Move to keep the threshold at 10 acres in OMC 18.04.060N. This may also require an amendment to the Comprehensive Plan policy PL16.12.

**Financial Impact:**

None: This action is included in the base budget

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, REDUCING FROM TEN ACRES TO FIVE ACRES THE THRESHOLD FOR REQUIRING THAT MULTIFAMILY HOUSING PROJECTS IN THE RM-18 AND RMU ZONES INCLUDE A VARIETY OF HOUSING TYPES; AND AMENDING OLYMPIA MUNICIPAL CODE SUBSECTION 18.04.060.N.**

WHEREAS, the Washington State Growth Management Act requires that development codes be consistent with Comprehensive Plans; and

WHEREAS, Olympia's Comprehensive Plan update, adopted in December of 2014, includes a policy update in PL16.12 that was made for the purpose of addressing public concerns about large-scale apartment projects with regard to their aesthetics and ability to provide a diversity of housing types within a neighborhood; and

WHEREAS, the updated policy PL16.12 requires a mix of single-family and multi-family structures in villages, mixed residential density districts, and apartment projects when these exceed five acres; and

WHEREAS, this amendment to Olympia Municipal Code (OMC) Subsection 18.04.060.N would be consistent with the updated policy by reducing from ten acres to five acres the threshold for requiring that multifamily projects in the Residential Multifamily 18-units per Acre (RM-18) and Residential Mixed Use (RMU) zoning districts include a variety of housing types (not more than 70% of any one housing type); and

WHEREAS, the Olympia Planning Commission received a briefing on the proposed code amendment on August 19, 2013, held a public hearing on February 10, 2014, and deliberated on February 24, 2014, and April 21, 2014; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended amending OMC Subsection 18.04.060.N to reduce from ten acres to five acres the threshold for requiring multifamily projects in the RM-18 and RMU zoning districts to include a variety of housing types (not more than 70% of any one housing type); and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), the City issued a Determination of Non-significance on the proposed code amendment on March 25, 2015; and

WHEREAS, no appeal of the SEPA Determination of Non-significance was submitted; and

WHEREAS, this Ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, Chapters 35A.63 and 36.70A RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia, including but not limited to documents relating to the 2014 Comprehensive Plan update; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance; and

WHEREAS, the above recitals shall be treated as findings of fact in support of this Ordinance;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 18.04.060. Olympia Municipal Code Subsection 18.04.060.N is hereby amended to read as follows:**

**N. LARGE MULTIFAMILY HOUSING PROJECTS.**

To ensure that large multifamily housing projects provide a transition to adjoining lower density development, multifamily projects shall be subject to the following requirements:

1. Mix of Dwelling Types.

a. In the RM-18 and RMU districts, no more than seventy (70) percent of the total housing units on sites of ~~ten (10) five (5)~~ or more acres shall be of a single dwelling type (e.g., detached single-family units, duplexes, triplexes, multi-story apartment buildings, or townhouses).

b. Multifamily housing projects in the RM-18 or RMU districts on sites of five (5) or more acres, which abut an existing or approved multifamily development of five (5) or more acres, shall contain a mix of dwelling types such that no more than eighty (80) percent of the total units in both projects (combined) are of one (1) dwelling type. The Director (or Hearing Examiner if applicable) shall grant an exception to this requirement if s/he determines that topography, permanent buffers, or other site features will sufficiently distinguish the developments.

2. Transitional Housing Types. In the RM-18, MR 7-13 and MR 10-18 districts detached single-family houses or duplexes shall be located along the perimeter (i.e., to the depth of one (1) lot) of multifamily housing projects over five (5) acres in size which are directly across the street and visible from existing detached single-family houses. Townhouses, duplexes, or detached houses shall be located along the boundary of multifamily housing sites over five (5) acres in size which adjoin, but do not directly face, existing detached single-family housing (e.g., back to back or side to side). The Director (or Hearing Examiner) may allow exceptions to these requirements where existing or proposed landscaping, screening, or buffers provide an effective transition between the uses. (See Chapters 18.170 Multi-Family Residential Design Guidelines and 18.36.140 Residential Landscape requirements.)

**Section 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

Darren Nienaber DCA

CITY ATTORNEY

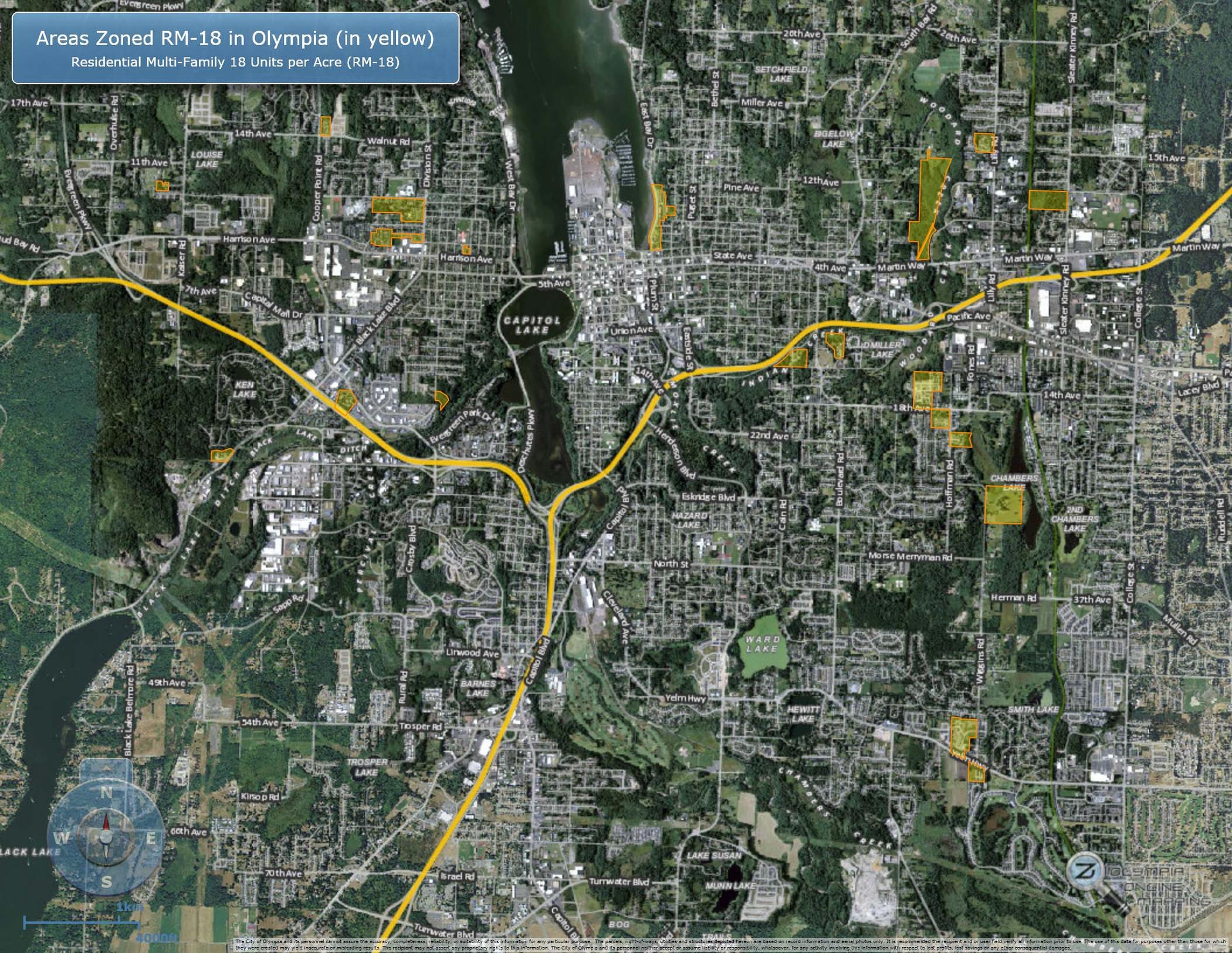
**PASSED:**

**APPROVED:**

**PUBLISHED:**

# Areas Zoned RM-18 in Olympia (in yellow)

Residential Multi-Family 18 Units per Acre (RM-18)



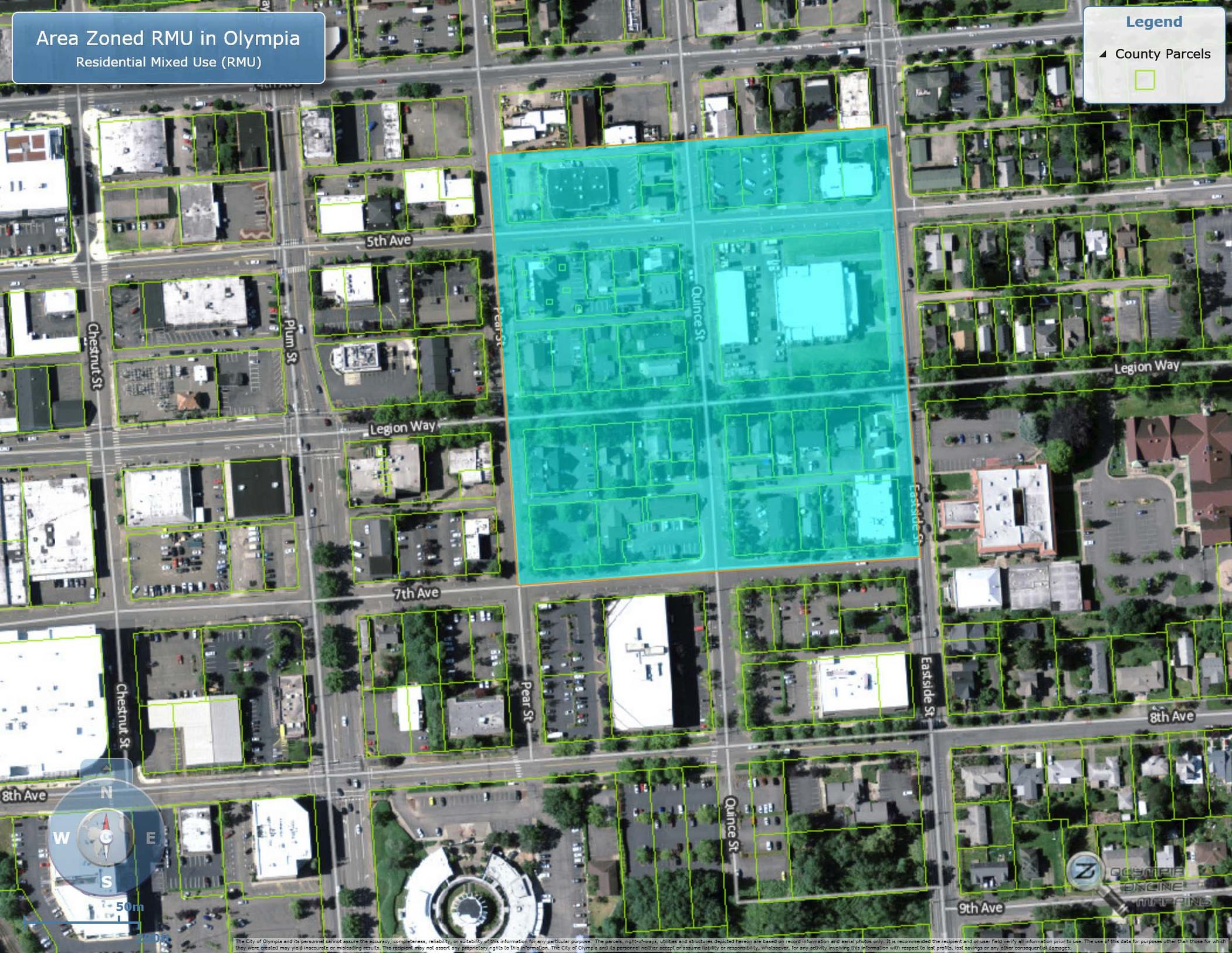
The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted herein are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. This use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.

# Area Zoned RMU in Olympia

Residential Mixed Use (RMU)

## Legend

- County Parcels



## Amy Buckler

---

**From:** Charles Shelan <cshelan@comcast.net>  
**Sent:** Tuesday, February 18, 2014 4:27 PM  
**To:** Amy Buckler  
**Subject:** RE: FW: Comments to OPC

Dear Amy,  
Thank you for your clarifying email.  
Sincerely,  
Charles Shelan

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message -----

**From:** Amy Buckler  
**Date:** 02/18/2014 3:18 PM (GMT-08:00)  
**To:** [cshelan@comcast.net](mailto:cshelan@comcast.net), [tiguy8@gmail.com](mailto:tiguy8@gmail.com), [shelanski@hotmail.com](mailto:shelanski@hotmail.com)  
**Subject:** FW: Comments to OPC

Dear Mr. Shelan et al.,

Hello, and thank you for your comments to the Planning Commission regarding the proposed Multi-family Housing development code change. I will include them in the OPC packet for Feb 24th. Meanwhile, I want to make sure you understand what is being proposed and not proposed.

The proposed change does not regard a development plan, nor does it seek to change the zoning classification of any parcel. The proposed change would apply to properties throughout the City that are zoned as Residential Multi-family 18-Units per Acre (RM-18), 5+ acres in size and the subject of an application to (re)develop. The change would be more restrictive than the current regulation.

The proposal regards the threshold for requiring a mix of housing types (i.e., no more than 70% of the development can be single family detached, townhome, duplex, or multifamily types) in the RM18 zone. The current threshold is 10+ acre parcels - the proposal is to change the threshold to 5+ acres. The requirement itself, the types of housing allowed, what areas are zoned RM18 - these are already in place in the Code. Only the 10+ threshold for mixing housing types in the RM18 is proposed to change at this time.

St. Pete's owns three contiguous parcels that total 20+ acres that are currently zoned RM18 in your area. So the scope of this proposed change would only affect whether they would be required to provide a mix of housing types for 10+ or 5+ acre parcels.

I hope that makes sense. It sounds like you are more concerned about RM18 zoning and prospects for future development in this area more than the proposed code change currently under consideration - is that right?

Sincerely,

Amy Buckler

## Nancy Lenzi

---

**From:** Nancy Lenzi  
**Sent:** Tuesday, February 18, 2014 4:33 PM  
**To:** Amy Buckler  
**Subject:** FW: Comments to OPC  
**Attachments:** scan0030.jpg; scan0031.jpg

Amy, I e-filed for you a PDF version of this public comment RE: Project file #13-0124 Multifamily Transitions in

\\calvin\CPD\PLANNING PROJECT FILES\13-0124 Multifamily Transitions\Public Comments

I will put a hard copy in your office for the project file (assuming that you have it).

-----Original Message-----

From: cpdinfo  
Sent: Tuesday, February 18, 2014 9:21 AM  
To: Amy Buckler  
Cc: CPD Planning  
Subject: FW: Comments to OPC

Received thru cpdinfo...

Pam Fant  
Permit Specialist/Supervisor  
[pfant@ci.olympia.wa.us](mailto:pfant@ci.olympia.wa.us)  
360 753 8288

-----Original Message-----

From: Charles Shelan [<mailto:cshelan@comcast.net>]  
Sent: Monday, February 17, 2014 3:30 PM  
To: cpdinfo  
Cc: [tiguy8@gmail.com](mailto:tiguy8@gmail.com); [shelanski@hotmail.com](mailto:shelanski@hotmail.com); 'Suzanne Shafer'  
Subject: Comments to OPC

Dear Olympia Planning Commission:  
Please accept these comments regarding the proposed changes in the Development Code.  
Sincerely,  
Charles Shelan  
Norma Shelan  
Heather Cole  
Tim Cole  
Suzanne Shafer

---

HP Photosmart software - great for easy organizing, printing, sharing, and creatively using your photos!

**Subject: The Olympia Planning Commission's (OPC) Potential Change to the Development Code RE: Multi-Family Housing Developments. (File # 13-0124)**

**Comment:**

As residents of Lindell Rd the OPC's proposal to change the Development Code regarding Multi-Family Housing Developments raises both definite environmental and potential infrastructure concerns for residents living adjacent to or nearby parcels of land that will be affected by the change.

The proposed regulatory change directly affects a sensitive wetland area neighboring Lindell Road. The environmental concerns of the wetland are the following:

- 1) Development in the wetland will reduce the wetlands ability to filter storm water runoff. Additionally, due to climate change and larger storm events predicted in the future, wetlands are key environmental features that will lessen the impacts of large flooding events and serve as a filter for storm water runoff.
- 2) Development in the wetland could potentially affect residents who live on Lindell Rd who currently depend on ground water wells for drinking water. Residents of Lindell Rd would like to recommend a study examining groundwater levels and the proposed high density development to ensure no impact on long-term supplies of drinking water.
- 3) Based on a study completed in Snohomish County, wetlands are now seen as Blue Carbon sinks, critical for not only wildlife habitat but also important for mitigating the impacts of climate change\*
- 4) Here in the Puget Sound, we all have a key role to play in Puget Sound Recovery as noted in the Puget Sound Action Plan. The key objective of this Plan is to recover the Sound by 2020. As noted in the 2013 Action Plan, one key action is to prevent and to reduce storm water runoff. Key aspects in preventing and reducing storm water runoff are; a) to leave current wetland environments intact, b )promote low impact development and c)decrease areas of impermeable surfaces-i.e. roads and parking lots.

Additionally, in the City of Everett a new hospital run by Providence was recently built. However, after completion the City of Everett found out that the new hospital exceeded the sewage and storm water treatment plant capacity. Therefore, the residents neighboring the hospital are no longer allowed to use the plant to filter their storm water runoff, increasing the amount of pollutants, toxins, and debris running directly into our fragile Puget Sound. The city of Everett case study is a stark reminder of the impact that high density development can have on existing sewage and storm water runoff treatment facilities.

The following residents of Lindell Road are against the proposed changes to the development code that affect multi-family housing developments.

Thank you for your consideration,

Charles Shelan



Norma Shelan



Heather Cole



Tim Cole



Suzanne Shafer



---

\*\* Crooks, S., Rybczyk, J., O'Connell, K., Devier, D.L., Poppe, K., Emmett-Mattox, S. 2014. *Coastal Blue Carbon Opportunity Assessment for the Snohomish Estuary: The Climate Benefits of Estuary Restoration*. Report by Environmental Science Associates, Western Washington University, EarthCorps, and Restore America's Estuaries. February 2014.

## Amy Buckler

---

**From:** West Olympia Business Association <Info@WestOlyBusiness.com>  
**Sent:** Friday, February 07, 2014 11:24 AM  
**To:** West Olympia Business Association  
**Subject:** Notice of Public Hearings - Olympia Planning Commission  
**Attachments:** Olympia Planninc Commission Notice of Public Hearings.pdf

Good morning,

Please find attached a notice from the Olympia Planning Commission regarding upcoming public hearings. Anyone is invited to attend these hearings.

*WOBA forwarded the notice .*

Thanks!

**West Olympia Business Association**

2103 Harrison, #2334

Olympia, WA 98502

360-867-8809

[Info@WestOlyBusiness.com](mailto:Info@WestOlyBusiness.com)

[www.WestOlyBusiness.com](http://www.WestOlyBusiness.com)

This email is a direct message from the West Olympia Business Association ([www.WestOlympiaBusiness.com](http://www.WestOlympiaBusiness.com)). We are committed to protecting your privacy and do not sell or rent your email address to any other party. To unsubscribe from WOBA e-mails, please respond to this message by clicking [here](#).

## Amy Buckler

---

**From:** Ron Niemi <Ron@southsounddevelopers.com>  
**Sent:** Friday, February 14, 2014 4:05 PM  
**To:** Amy Buckler  
**Subject:** Comments: Proposed Multi-Family Transitions, File #13-0124  
**Attachments:** RM-18 Comments.pdf

Good afternoon Amy,

Please find my comments to the proposed "Multi-Family Transitions", File #13-0124 attached.

Thank you for the opportunity to input to the process. This is an important consideration for Olympia's economic and urban future.

Best regards,

Ron Niemi  
Woodard Bay Works, Inc.  
(360) 545-3759

*This message may contain confidential and/or privileged information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation.*

---

**From:** Nancy Lenzi  
**Sent:** Wednesday, January 29, 2014 3:38 PM  
**Cc:** Amy Buckler; Stacey Ray; Todd Stamm  
**Subject:** Notice of Olympia Planning Commission Public Hearings

**To: The City of Olympia Planning Commission**

**RE: Proposed threshold change associated with RM-18 zoning:**

Implementing this proposed change may appear on the surface to be a “softer” approach to densification within the urban core, but has some real-life implications that would delay or permanently impede reaching the well-established and vetted goals of Olympia and Thurston County. Those goals are outlined in the Joint Comprehensive Plan, TRPC’s Sustainable Thurston Plan, TRPC’s Urban Corridors Plan and the Growth Management Act (hereinafter, ‘The Plans’).

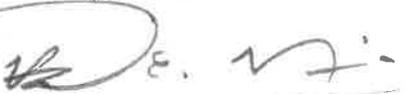
First, it will result in a net reduction in the density of the largest available properties in the City and UGA that are zoned RM-18. Those properties represent the best opportunity for Olympia and Thurston County to create thriving neighborhood centers that will support business, transit and other alternative commute options for the future. The resulting reduction in living units yields fewer “heads in beds”. That equates to less density to enable and support the key elements of The Plans. It also equates to higher risk and marginal economic feasibility for the development community to proceed with projects. That in turn yields delay in implementation of The Plans in the face of a large population increase coming at Thurston County over the next few years, which will continue to push development out of the urban core, increase sprawl, increase vehicle trips, increase utility infrastructure demands and increase rural roadway level of service challenges.

Olympia and Thurston County have well developed design review processes in place to assure quality development. I have been a participant in these processes from the developer perspective and find they are responsible and yield high-quality projects. The development community is creative and resourceful, but implementation of this proposal will place an unnecessary barrier in the face of the folks that would build the vision.

Responsible and effective land development is difficult. It’s a professional discipline that requires a willingness to take on high risk in a complex environment involving regulation, lending (borrowing), and equity partnerships. As well, it requires sharp technical and management acumen in multiple areas, including site acquisition, site development, building design and building construction. Predictability of process and stability of direction are all-important to establishing and maintaining momentum.

Please consider, again, the key barriers, incentives and opportunities outlined so succinctly and clearly in *Sustainable Thurston* before making your decision.

Thank you for your consideration,



Ron Niemi  
Woodard Bay Works, Inc.

## Amy Buckler

---

**From:** HR&Cv <salazarhacienda@msn.com>  
**Sent:** Monday, February 10, 2014 8:06 PM  
**To:** Amy Buckler  
**Subject:** Rm18 development 10 acre to 5 acre

As I stated in my public comments I am very much in favor of that change and also interested in additional development in that area. I would like to have more information on the cities plans for the NE portion of the GMA along South Bay Road and surrounding vicinity.

I would like to meet with someone on the Planning Council to maybe get a better idea of where I stand and what plans I can make in the future.

Please call me if some type of meeting can be arranged.

Thank you for card and consideration.

Sincerely,

S:)

Hubert R. Salazar  
3045 Lindell Rd Ne  
OlyWA 98506-3623

360-292-2429 This is my cell # so can call or text me at that #.

Or email at [salazarhacienda@msn.com](mailto:salazarhacienda@msn.com)

Sent from my NOOK

## Amy Buckler

---

**From:** HR&Cv <salazarhacienda@msn.com>  
**Sent:** Tuesday, February 11, 2014 10:52 AM  
**To:** Amy Buckler  
**Subject:** Rm18 development 10 acre to 5 acre

As I stated in my public comments I am very much in favor of that change and also interested in additional development in that area. I would like to have more information about the city's plans for future development for the area I discussed and also the development of the NE GMA along South Day Rd.

I would like to have a one on one with someone on the Commission so that my wife and I can also plan our future.

Thank you very much for your card and consideration.

Sincerely,

S:)  
Hubert R. Salazar

360-292-2429 This is my cell# you can call or text me at this number.

Or email at [salazarhacienda@msn.com](mailto:salazarhacienda@msn.com)

Sent from my NOOK

## Amy Buckler

---

**From:** Amy Buckler  
**Sent:** Wednesday, February 05, 2014 4:45 PM  
**To:** 'commissionermax@gmail.com'; klwa-pha@msn.com; Roger Horn; judybardin@comcast.net; Jerome Parker; Carole Richmond (laikodi@comcast.net); sierra.hiker@gmx.com; Jessica Bateman (jessicabateman870@gmail.com); missy@brennerandwatts.com  
**Subject:** FW: Written Public Comment on Multi-Family Transitions

Dear Commissioners,

Please see below. I hope you are okay with this.

Thank You,  
Amy

**From:** Max Brown [mailto:brownmh74@gmail.com]  
**Sent:** Wednesday, February 05, 2014 1:24 PM  
**To:** Amy Buckler  
**Subject:** Re: Written Public Comment on Multi-Family Transitions

Sounds great Amy; go for it!

—  
Sent from Mailbox for iPhone

On Wed, Feb 5, 2014 at 12:43 PM, Amy Buckler <[abuckler@ci.olympia.wa.us](mailto:abuckler@ci.olympia.wa.us)> wrote:

Hi Max,

I left you a rather long voicemail earlier. Sorry for that. My question is, at the next meeting, would you be willing to ask the OPC to extend the deadline for written comment on the public hearing code amendments (at least Multi-Family Transitions) until Monday, Feb 17 at 5:00 p.m.?

Reason is that I realized after I sent out public notice to neighborhood associations, affected property owners and agencies last week that back in August when Todd briefed OPC on this issue, OPC had requested notice be sent to properties adjacent to potentially affected parcels in the RM-18 & RMU zones. I have prepared such a mailing (250 folks) and in the memo have indicated that written comment will be received until Feb 17. Although, in this case, there is no legal requirement regarding how long before the close of the public hearing people should receive notice, it is a standard courtesy to give them at least 10 days.

Any written comments would be bundled and included in your packet for the deliberation scheduled for Feb 24. Based on prior experience, I do not believe this will be a problem for Commissioners.

Let me know – I plan to put the attached notice in the mail tomorrow.

Thanks!

## Amy Buckler

---

**From:** Amy Buckler  
**Sent:** Wednesday, February 05, 2014 2:45 PM  
**To:** 'Peter Lee'  
**Subject:** RE: Multi-Family Transition File #13-0124

Hi Peter,

Here's the gist (which I think will answer your questions:)

**Properties subject to this potential code change are legal parcels with the following characteristics:**

- Zoned Residential Multi-Family 18 Units per Acre (RM-18) or Residential Mixed Use (RMU)
- Parcels 5+ acre in size
- Are the subject of a permit application to the City of Olympia to redevelop the property, submitted after adoption of applicable code update. (*Development regulations do not apply retroactively to existing developments, except that renovations must not bring site further away from new code.*)

**The specific development code under consideration:**

- Olympia Municipal Code (OMC) 18.04.060.N regarding "Large Multifamily Housing Projects."
- Requires properties in the RM-18 and RMU zones that meet a certain threshold to provide a mix of housing types, so that no more than 70% of the dwellings are of a single type (i.e., single family detached, duplex, triplex, townhouses or multi-story apartment building.)
  - Current threshold is 10 acres.
  - Proposal is to change this threshold to 5 acres.
- In the RM-18 zone, multi-family housing projects are required to locate single-family or duplexes around the perimeter of the development (one lot deep) to provide a transition from apartment to single-family dwellings, when the new development is across the street and visible from existing detached single-family homes.
  - Currently not proposed to change.

The proposed change could affect your site in the future if you wish to redevelop it. It wouldn't affect the allowed density per say, but would mean that you wouldn't be able to expand any one housing type beyond 70% of the of the total number of dwellings.

Hope that helps,

**Amy Buckler**

Associate Planner  
Community Planning & Development  
601 4th Ave E  
P.O. Box 1967  
Olympia, WA 98507-1967

Office: (360) 570-5847  
Cell: (360) 507-1955  
Fax: (360) 753-8087

**This email is subject to public disclosure**

**From:** [leep80@gmail.com](mailto:leep80@gmail.com) [<mailto:leep80@gmail.com>] **On Behalf Of** Peter Lee  
**Sent:** Tuesday, February 04, 2014 5:51 PM

**To:** Amy Buckler  
**Subject:** Multi-Family Transition File #13-0124

Amy-

Saw the notice for the Multi-Family transition on the public hearing schedule.

Have a few questions for you.

- 1) what do you mean by "a variety of housing types". Does that mean not just standard multi-family dwellings?
- 2) do the proposal mean that now multi-family complexes larger than 5 acres AND has a density equal to or greater than 18 units per acre. Whereas it use to only apply to multi-family complexes larger than 10 acres AND have a density greater than 18 units.
- 3) Would this new requirement if it goes be for all new proposed properties, or would it affect previously constructed properties.

The ownership group I represent has a complex that is 8.2 acres and has a current density of around 14.2 units/acre. It is all standard apartment units, though a few of our units are taken by individuals who receive section 8 assistance. Trying to figure out if this proposal will affect us. Thank you for your time.

Peter

--

Peter Lee  
Direct: (206) 651-4533  
Work Cell: (206) 380-2227  
Fax: (866) 858-5861

## Amy Buckler

---

**From:** Amy Buckler  
**Sent:** Wednesday, February 05, 2014 2:33 PM  
**To:** 'Concerned East Side Neighbors'  
**Subject:** RE: FW: Notice of Olympia Planning Commission Public Hearings

Hello,

I am working on completing the staff report right now. Both the Multi-Family Transition and the Scenic Views staff reports will be posted to the [Agenda & Minutes Calendar](#) on the City's website, under the Planning Commission 2/10 agenda date, by 5:00 p.m. tomorrow.

Meanwhile, here's the gist:

**Properties subject to this potential code change are legal parcels with the following characteristics:**

- Zoned Residential Multi-Family 18 Units per Acre (RM-18) or Residential Mixed Use (RMU)
- Parcels 5+ acre in size
- Subject of a permit application to the City of Olympia to redevelop the property, submitted after adoption of applicable code update. (*Development regulations do not apply retroactively to existing developments.*)

**The specific development code under consideration:**

- Olympia Municipal Code (OMC) 18.04.060.N regarding "Large Multifamily Housing Projects."
- Requires properties in the RM-18 and RMU zones that meet a certain threshold to provide a mix of housing types, so that no more than 70% of the dwellings are of a single type (i.e., single family detached, duplex, triplex, townhouses or multi-story apartment building.)
  - Current threshold is 10 acres.
  - Proposal is to change this threshold to 5 acres.
- In the RM-18 zone, multi-family housing projects are required to locate single-family or duplexes around the perimeter of the development (one lot deep) to provide a transition from apartment to single-family dwellings, when the new development is across the street and visible from existing detached single-family homes.
  - Currently not proposed to change.

The impetus of this proposed change is public comments associated with various previous developments and *Imagine Olympia*, the City's Comprehensive Plan Update. This is the first in a series of potential code amendments that would implement the proposed draft Comprehensive Plan Update, currently under review by the City Council.

Hope that helps,

**Amy Buckler**  
Associate Planner  
Community Planning & Development  
601 4th Ave E  
P.O. Box 1967  
Olympia, WA 98507-1967

Office: (360) 570-5847  
Cell: (360) 507-1955  
Fax: (360) 753-8087

**This email is subject to public disclosure**

**From:** Concerned East Side Neighbors [<mailto:concernedeastsideighbors@gmail.com>]

**Sent:** Wednesday, February 05, 2014 2:28 PM

**To:** Amy Buckler

**Subject:** Re: FW: Notice of Olympia Planning Commission Public Hearings

Amy,

Thank you for sending information about the public hearing regarding multifamily transitions (case#13-0124) that will take place on Feb. 10, 2014. Do you have any more details about this? I went to the City of Olympia website and could not find any references to this matter or to the "Scenic views from streets #13-0115", which includes Boulevard Rd.--- There was a file attachment at the bottom of Nancy Lenzi's email to you, but I could not access this. Where can I find more information on these matters to share with our members?

Sincerely,

CEN

On Mon, Feb 3, 2014 at 9:41 AM, Amy Buckler <[abuckler@ci.olympia.wa.us](mailto:abuckler@ci.olympia.wa.us)> wrote:

Dear Concerned Eastside Neighbors,

You may be interested in the potential code amendment for Multi-family Transitions (public hearing notice below.) Basically, it would change the threshold for needing to mix housing types/buffer next to existing single-family from 10 acre to 5 acre developments. This change could apply to development in your area if it passes. Following the OPC public hearing, the OPC recommendation would go to City Council for consideration at the same time or immediately after Council takes action on our Comp Plan Update – expected as early as April, no later than June.

Please feel free to call me if you have any questions.

Amy

**Amy Buckler**

Associate Planner

Community Planning & Development

601 4th Ave E

P.O. Box 1967

## Amy Buckler

---

**From:** Jeanette Dickison <jeanette@smythlanding.com>  
**Sent:** Friday, January 31, 2014 9:40 AM  
**To:** Amy Buckler  
**Subject:** RE: Multifamily Transitions

Amy,

That makes sense. Including West Bay on the list of affected areas or properties probably doesn't.

Thanks for your attention to this!

Jeanette Dickison  
Legal Assistant  
SMYTH MCINTOSH, PS  
A Professional Law Corporation  
1801 West Bay Drive NW Suite 202  
Olympia, WA 98502  
(360)352-0866 (office)  
(360)352-3375 (fax)

---

**From:** Amy Buckler [<mailto:abuckler@ci.olympia.wa.us>]  
**Sent:** Thursday, January 30, 2014 4:17 PM  
**To:** Jeanette Dickison  
**Subject:** RE: Multifamily Transitions

Hi Jeanette,

The proposed code amendment would only apply in Residential Multifamily and Mixed Residential zones, on sites of 5 acres or more, or sites of 3 or more acres that abut an existing or approved 3 or more acre multifamily development. So this typically would not apply to mixed use buildings since most commercial uses are not allowed in these zones anyway (*exceptions: daycare, home occupation, or conditionally nurseries or hospice.*) Given the parcel size threshold I wouldn't expect it to apply to one apartment building either. I'm curious now and so will check with a building plans examiner, but I don't think we would allow one ginormous apartment building on a five acre lot. The purpose is to provide a transition between existing neighborhoods and new large multifamily developments.

'Variety of housing types' generally means detached single-family units, duplexes, triplexes, multi-story apartment buildings, or townhouses. The mix requirement already exists in our code, and is 5 acres in most places, except for a few where it is currently 10 acres. So, the proposed amendment would affect relatively few properties in Olympia.

Please let me know if you have any other questions.

Sincerely,

**Amy Buckler**  
Associate Planner  
Community Planning & Development  
601 4th Ave E  
P.O. Box 1967  
Olympia, WA 98507-1967

Office: (360) 570-5847  
Cell: (360) 507-1955  
Fax: (360) 753-8087

**This email is subject to public disclosure**

---

**From:** Jeanette Dickison [<mailto:jeanette@smythlanding.com>]  
**Sent:** Thursday, January 30, 2014 12:09 PM  
**To:** Amy Buckler  
**Subject:** Re: Multifamily Transitions

Hi Amy,

I just received the notice regarding multifamily transitions. Although I don't believe the 5 acre threshold will apply to any of the developable parcels of land along West Bay, I do wonder how you are defining "variety of housing types" as it would apply to one mixed-use building or apartment building?

Thank you.

Jeanette Dickison  
Legal Assistant  
SMYTH MCINTOSH, PS  
A Professional Law Corporation  
1801 West Bay Drive NW Suite 202  
Olympia, WA 98502  
(360)352-0866 (office)  
(360)352-3375 (fax)



## NOTICE OF PUBLIC HEARINGS OLYMPIA PLANNING COMMISSION

Community Planning & Development  
601 4<sup>th</sup> Avenue E. – PO Box 15  
Olympia WA 98501-15  
Phone: 360.753.8141  
Fax: 360.753.8142  
[cpdinfo@ci.olympia.wa.us](mailto:cpdinfo@ci.olympia.wa.us)  
[www.olympiawa.gov](http://www.olympiawa.gov)

The City of Olympia Planning Commission will hold two public hearing(s) on **Monday, February 10, 2014, beginning at 6 p.m. at Olympia City Hall (in City Council Chambers or 2<sup>nd</sup> floor Conference Room 207,) 601 4<sup>th</sup> Avenue E, Olympia Washington**, to receive public comments prior to making a recommendation to the City Council on the following proposed development code amendments. These are the first in a series of potential code amendments that would implement proposed draft Comprehensive Plan Update, currently under review by the City Council.

The Commission may recommend that the proposals be adopted or not adopted, or may recommend an alternative or variation. A staff report regarding each issue will be available and posted on the City website, [olympiawa.gov](http://olympiawa.gov), under "Planning Commission" and the meeting date, by Thursday, February 6.

---

**Case name:** Multi-Family Transitions  
**File number:** #13-0124  
**Proposal:** Reduce from 10 to 5 acres the threshold for requiring that multi-family (apartment) projects in Multi-family Residential 18 units per acre and Residential Mixed Use zoning districts include a variety of housing types, i.e., no more than 70% of one type.

**Location:** Citywide  
**Staff contact:** Amy Buckler, Lead Staff, 360.570.5847, [abuckler@ci.olympia.wa.us](mailto:abuckler@ci.olympia.wa.us)

---

**Case name:** Scenic Views from Streets.  
**File number:** #13-0115  
**Proposal:** Narrow the requirement to preserve scenic views from public streets as currently shown on 'Scenic Vista's overlay zoning maps' to those listed in the proposed Comprehensive Plan Update examples, which include: State Avenue, 4th Avenue, Harrison Avenue, Deschutes Parkway, West 1 Drive, East Bay Drive, the 4th Avenue Bridge, Olympia Avenue, Boulevard Road, Pacific Avenue, Martin Way, Brawne Street, Foote Street, and Capitol Way. The listed views are intended to be in place until a specific list is determined through a public process.

**Note:** this amendment would not apply to specific view protection elsewhere in the development regulations, such as height limits related to views of the Capitol Group.

**Location:** Citywide  
**Staff contact:** Stacey Ray, Lead Staff, 360.753-8046, [gray@ci.olympia.wa.us](mailto:gray@ci.olympia.wa.us)

---

Anyone interested is invited to attend and present testimony regarding the above proposals. Written statements may be submitted to the Olympia Community Planning and Development Department, PO Box 1967, Olympia, WA 98507-1967. Written comments must be received at or prior to the close of the public hearings on the evening of February 10.

If you require special accommodations to attend and/or participate in this meeting, please contact Community Planning & Development by 10:00 a.m., 48 hours in advance of the meeting or earlier, if possible; phone: 360.753.8314; e-mail: [cpdinfo@ci.olympia.wa.us](mailto:cpdinfo@ci.olympia.wa.us). For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 1.800.833.6384.

The City of Olympia is committed to the non-discriminatory treatment of all persons in the delivery of services and resources.

**Notice Emailed or Mailed: January 29, 2014**  
**COMMUNITY PLANNING AND DEVELOPMENT DEPARTMENT**



## City Council

# Approval of Ordinances Creating an Olympia Metropolitan Park District and Authorizing a Metropolitan Park District Interlocal Agreement

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.1  
**File Number:** 15-0678

---

**Type:** ordinance **Version:** 2 **Status:** 2d Reading-Consent

---

### Title

Approval of Ordinances Creating an Olympia Metropolitan Park District and Authorizing a Metropolitan Park District Interlocal Agreement

### Recommended Action

#### Committee Recommendation:

The Finance Committee unanimously agreed to recommend to the full Council approval of the Olympia Metropolitan Park District proposal for consideration at its meeting on July 7, 2015.

#### City Manager Recommendation:

Move to approve on second reading (1) the ordinance creating an Olympia Metropolitan Park District and (2) the companion ordinance approving an Interlocal Agreement between the City and the Olympia Metropolitan Park District.

### Report

#### Issue:

Should the Council approve the proposed Olympia Metropolitan Park District Ballot Measure Ordinance and the companion Ordinance Approving an Interlocal Agreement between the City and the Olympia Metropolitan Park District.

#### Staff Contact:

Mark Barber, City Attorney, 360.753.8338

Jane Kirkemo, Administrative Services Director, 360.753.8325

### Background and Analysis:

Over the past seven months, the Olympia Parks, Arts and Recreation Department (OPARD) has conducted public meetings and a survey to obtain input and participation in the development of future planning for the City's recreational facilities, parks acquisition, improvements and maintenance needs for current parks and facilities, including public presentations and Study Sessions by the Olympia City Council and its committees. Extensive community input was received during this public process, which was facilitated in order to update the Parks, Arts and Recreation Plan.

At the City Council Retreat in January, the Council's Finance Committee was directed to continue

working toward the City Council goal of adopting a sustainable budget by working with the community and staff to identify current and future funding gaps within the City budget and a variety of strategies to address those gaps.

The Finance Committee evaluated a variety of different revenue strategies, including a metropolitan park district authorized by RCW Chapter 35.61, to address funding issues. The Committee held open public meetings to receive information from Olympia Parks Arts, and Recreation Department (OPARD) staff and public testimony from residents. The Committee also inquired and deliberated about the City's current and future recreational needs and the related budget issues. Based on this process, the Finance Committee developed its recommendation that the City Council initiate the formation of a metropolitan park district, by placing before the voters within the boundaries of the City of Olympia, a ballot measure to create the Olympia Metropolitan Park District (the District).

The Finance Committee also agreed that if a metropolitan park district were formed, measures be taken to provide for ongoing citizen oversight of City and District funds.

Following its June 9 Special Study Session, the City Council directed the Finance Committee to work with staff and citizen park advocates to prepare the necessary documents to put an Olympia Metropolitan Parks District proposition on the ballot, and bring the documents back for full City Council consideration on July 7, 2015.

Chapter 35.61 RCW and other State law provides that a metropolitan park district may be created upon voter approval of a ballot proposition submitted to the voters of the proposed District, and that a metropolitan park district has certain statutory powers, including the power to levy and impose various taxes and fees to generate revenues to provide ongoing funding to acquire, maintain, operate, develop, and improve parks, community centers, pools, and other recreation facilities and programs.

### Summary of the Ordinances

Ordinances were prepared for Council review and were approved on first reading by Council vote 4-3, on July 7, 2015. On motion, the ordinances were advanced to second reading on the Consent Calendar. The form and content of the ordinances are guided by relevant state law, input from citizens, staff and the City Attorney, working in cooperation with bond counsel, Nancy Neraas of Foster Pepper, PLLC, and underwent bond counsel review.

The ballot title must conform to certain statutory requirements and is subject to a 75-word limit describing the measure.

### Second Reading

Since first reading, minor revisions have been made to the Ordinance Relating to an Interlocal Agreement in **Section 1. Statement of Intent** and in **Attachment 1 (INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA AND THE OLYMPIA METROPOLITAN PARK DISTRICT)**, specifically in **Section 3.1.1 Finance**, Subsections (iii) and (iv), **Section 5.1** and in ADDENDUM 1. The revisions are as follows:

- The wording in the Ordinance Relating to an Interlocal Agreement in **Section 1. Statement of Intent** has been revised to read:

It is the intent of the City of Olympia that, if the voters approve formation of the Olympia Metropolitan Park District (“Olympia Metropolitan Park District” or “District”) within the boundaries of the City of Olympia, the City will work in cooperation with the District, the Olympia Parks, Arts and Recreation Committee (“PRAC”), and a new citizens’ advisory committee consisting of five (5) persons to advise the City and the District. The new advisory committee shall be referred to as the OMPD Advisory Committee and will provide an annual report to the City and District regarding the City’s compliance with the funding levels contained within the interlocal agreement. ~~on park acquisitions, development, maintenance, park standards and review of funding levels provided herein and in the interlocal agreement, together with other community based neighborhood associations to ensure stable, ongoing funding to maintain, operate, acquire and improve parks, community centers, athletic fields and other recreation facilities and programs throughout the City.~~

- Errata corrected in Attachment 1 to the Ordinance Relating to an Interlocal Agreement, Interlocal Agreement, Section 3.1.1: The reference in Section 3.1.1(iii) to “.5%” is changed to “one-half,” and the reference in Section 3.1.1 (iv) to “0.5%” is changed to “one-half.”

- The wording in Attachment 1 to the Ordinance Relating to an Interlocal Agreement, Interlocal Agreement, Section 5.1, is revised to add the following sentence:  
**5.1. Ownership of Property.** All park and recreation land, facilities and equipment that are maintained, acquired, improved or otherwise used in connection with this Agreement are and shall remain the property of the City. No joint property ownership is contemplated under the terms of this Agreement. In accordance with state law and City policy, the City retains the right to acquire or to sell or divest itself of city owned park land or facilities. Any proceeds from a sale or divestment of park land or facilities shall be dedicated to park purposes, including repaying bonds issued for park purposes.

- In the Notes section to ADDENDUM 1 to Attachment 1, Interlocal Agreement, to the Ordinance Relating to an Interlocal Agreement, revised to read: “~~excluding~~ currently ~~dedicated portions to, e.g., criminal justice and safety,~~” and adding note to all taxes.

The proposed revisions on second reading have been reviewed and approved by bond counsel.

Creation of Olympia Metropolitan Park District. The proposed ordinance would place a measure on the November 3, 2015, ballot to create a metropolitan park district. As currently drafted, upon voter approval of the measure, the District would be formed with the same boundaries as the City of Olympia, and the Olympia City Councilmembers, acting *ex officio* and independently, would comprise the governing board (the District Board).

If approved by a majority of the voters within its proposed boundaries, the District would be formed as a separate municipal corporation. It would have all the powers given to metropolitan park districts under State law, including the power to levy a property tax and ability to act in conjunction with the City to acquire, develop, maintain, operate, and improve parks, community centers, and other recreation facilities and programs.

Interlocal Agreement. As a companion to the proposed ordinance to create a metropolitan park district, there is an ordinance which provides for an Interlocal agreement between the City and the District if voters approve creation of a Metropolitan Park District. The companion ordinance specifies how the City and the District would cooperate and authorizes the Mayor to execute such an

agreement on behalf of the City and expresses the City's intent to work with a citizens' advisory committee on park acquisitions, development, maintenance, park standards, and review of funding levels as specifically provided in the Interlocal Agreement to ensure stable, ongoing funding to maintain, acquire, operate, and improve parks, community centers, athletic fields and other recreation facilities and programs. Further, the City expresses its intent to commit revenues for park land acquisition.

**Neighborhood/Community Interests (if known):**

Establishment of a city-wide metropolitan park district will provide stable, ongoing funding to maintain, acquire, operate and improve parks, community centers, athletic fields, and other recreation facilities and programs throughout the City.

**Options:**

1. Approve on second reading the proposed Olympia Metropolitan Park District Ballot Measure Ordinance and the companion Ordinance Approving an Interlocal Agreement between the City and the District.
2. Provide direction to delay action to 2016 or beyond.
3. Do nothing at this time.

**Financial Impact:**

Approved metropolitan park districts, created pursuant to RCW Chapter 35.61, have the authority to levy property taxes up to \$0.75/\$1,000 (75 cents per \$1,000) of Assessed Value (AV). The Finance Committee discussed levying the full amount and then "banking" some capacity. Previous discussions about the Olympia Metropolitan Park District have preliminarily discussed an increase of property taxes by \$0.54/\$1,000 (54 cents per \$1,000) of AV, which would generate an estimated \$3,000,000 per year in additional funding for Parks, Arts and Recreation purposes. The estimated cost to the owner of a \$250,000 home is approximately \$135/year or \$11.25 per month. The decision on the actual amount of property tax levied is set by the Park District Board, following a public hearing, if voters approve creation of a Metropolitan Park District in the November general election. No new taxes will be assessed or collected until 2017. During the June 30 Finance Committee meeting, it was recommended an additional 10 cents would be added allowing the Non Voted Utility (NVU) tax to be used for acquisition as well. The additional funds would ensure no current City funding would be negatively impacted (Building Repair and Maintenance currently receives ½ of the NVU tax). The Board, not the City Council, sets the tax rate. If some amount is "banked," then the Board in future years may levy some or all of the remaining rate. If the levy is not banked, then the levy may only increase by 1% or the Implicit Price Deflator, whichever is less (the same as the City's ad valorem tax rate). It should be noted that a metropolitan park district is a junior taxing district. The aggregate regular levy rates of senior taxing districts (counties and cities) and junior taxing districts (fire districts, metropolitan park districts, cemetery districts, library districts and parks and recreation districts) may not exceed \$5.90 per thousand dollars of AV. If this limit is exceeded, the levy of some or all of the junior taxing districts must be pro-rated.

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO CREATION OF THE OLYMPIA METROPOLITAN PARK DISTRICT WITH BOUNDARIES COEXTENSIVE WITH THE CITY; REQUESTING THAT AN ELECTION BE HELD CONCURRENT WITH THE NOVEMBER 3, 2015 GENERAL ELECTION, FOR SUBMISSION TO THE VOTERS RESIDING WITHIN THE CITY, A PROPOSITION TO FORM THE OLYMPIA METROPOLITAN PARK DISTRICT.**

WHEREAS, the Olympia City Council finds there is a need to create a stable funding source for the maintenance and acquisition of parks and other recreation facilities and programs to serve the residents of Olympia; and

WHEREAS, Chapter 35.61 RCW and other state law provides that a metropolitan park district (MPD) may be created upon voter approval of a ballot proposition submitted to the voters of the proposed district, and that a metropolitan park district has certain statutory powers, including the power to levy and impose various taxes and fees to generate revenues to provide ongoing funding to maintain, operate, construct, improve and acquire parks, community centers, athletic fields and other recreation facilities; and

WHEREAS, the Olympia City Council finds that it is in the best interests of residents of Olympia to submit to the voters a ballot proposition to create a metropolitan park district, to be called the Olympia Metropolitan Park District, that includes the entire area within the boundaries of the City of Olympia;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Election – Ballot Title.** The Olympia City Council directs the City Clerk to file this Ordinance with the Auditor of Thurston County, Washington, as *ex officio* supervisor of elections. The City Clerk shall request that the Auditor call and conduct in the City of Olympia an election to be held on November 3, 2015, for the purpose of submitting to the voters within the boundaries of the City of Olympia (which are the boundaries of the proposed district) a proposition to form the Olympia Metropolitan Park District as authorized under Chapter 35.61 RCW. The City Clerk is directed to certify to the Auditor of Thurston County, Washington, a ballot title in substantially the following form, with such changes as may be approved by the City Attorney:

THE CITY OF OLYMPIA  
PROPOSITION NUMBER 1  
OLYMPIA METROPOLITAN PARK DISTRICT

The City of Olympia Proposition Number 1 concerns formation of the Olympia Metropolitan Park District, a metropolitan park district.

This proposition creates the Olympia Metropolitan Park District to provide ongoing funding to acquire, maintain, operate and improve parks, Percival Landing, and other recreation facilities and programs. The District has the same boundaries as the City of Olympia, be governed by a Board composed of Olympia City Councilmembers, and exercises powers given to metropolitan park districts in state law, including levying property taxes and contracting with the City of Olympia to perform District functions.

[ ] For the formation of a metropolitan park district to be governed by the members of the Olympia City Council serving in an *ex officio* capacity as the Board of Commissioners of the Olympia Metropolitan Park District.

[ ] Against the formation of a metropolitan park district.

**Section 2. Boundaries of the Olympia Metropolitan Park District and Composition of Governing Board.** The boundaries of the Olympia Metropolitan Park District will be coterminous with the boundaries of the City of Olympia. Initially the Board will be composed of the elected City Councilmembers of the City of Olympia, who will be designated to serve in an *ex officio* capacity as the Board of metropolitan park district commissioners.

**Section 3. Ratification.** The City Clerk's certification to the Auditor of Thurston County, Washington of the proposition in Section 1 above and any other acts taken after the passage of this Ordinance and consistent with its authority, are hereby ratified and confirmed.

**Section 4. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 5. Effective Date.** This Ordinance shall take effect and be in force five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**



\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

**Ordinance No. \_\_\_\_\_**

**AN ORDINANCE RELATING TO AN INTERLOCAL AGREEMENT WITH THE OLYMPIA METROPOLITAN PARK DISTRICT, IF FORMATION OF THE DISTRICT IS APPROVED BY THE VOTERS WITHIN THE CITY OF OLYMPIA; APPROVING THE FORM OF AN INTERLOCAL AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE CITY.**

WHEREAS, the Olympia City Council has enacted Ordinance No. \_\_\_\_\_, previously finding that there is a need to create a stable funding source for parks including the maintenance, improvement, construction and acquisition of parks and recreation facilities and programs; and

WHEREAS, pursuant to RCW 35.61.040, if a majority of the voters voting on the ballot proposition approve of the formation of the Olympia Metropolitan Park District, the District will be created as a municipal corporation effective immediately upon certification of the election results; and

WHEREAS, state law (including Chapters 35.61, 67.20 and 84.52 RCW) authorizes metropolitan park districts to levy and impose various taxes and fees to provide ongoing funding to acquire, construct, maintain, operate and improve parks and recreation facilities; and

WHEREAS, the Olympia City Council by Ordinance No. \_\_\_\_\_ has found that it is in the best interests of the residents of Olympia to submit to the voters a ballot proposition to create the Olympia Metropolitan Park District to provide a stable funding source for the maintenance, acquisition, construction and improvement of parks and recreation facilities and programs;

WHEREAS, in 2004, the voters of Olympia approved a new utility tax of 2% for parks. The City represented to the voters that such tax revenues would be prioritized for the acquisition of park lands to meet future population demand before available lands are lost to other uses. The City projected that this tax revenue, along with the existing 1% non-voted utility tax enacted by the City in 1994, would be able to acquire approximately 500 acres of park lands over the next twenty (20) years. The City has acquired sixty-three (63) acres of park lands in the first decade, during a time of economic recession and recovery.

WHEREAS, in order to clearly describe the cooperative relationship between the Olympia Metropolitan Park District and the City of Olympia, the City Council finds that it is in the best interests of the City to enter into an interlocal agreement with the Olympia Metropolitan Park District as further described in this Ordinance and that the Mayor is authorized to sign an interlocal agreement with the newly formed District, a copy of which is attached hereto as Attachment 1;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Statement of Intent.** It is the intent of the City of Olympia that, if the voters approve formation of the Olympia Metropolitan Park District ("Olympia Metropolitan Park District" or "District") within the boundaries of the City of Olympia, the City will work in cooperation with the District, the Olympia Parks, Arts and Recreation Committee ("PRAC"), and a new **citizens' advisory committee** consisting of five (5) persons to advise the City and the District. The new advisory committee shall be referred to as the OMPD Advisory Committee and will provide an annual report to the City and District regarding the City's compliance with the funding levels contained within the interlocal agreement.

Further, it is the intent of the City if the voters approve formation of the Olympia Metropolitan Park District that District funding will supplement and protect existing City of Olympia parks funding and not replace such City funding, as more specifically set forth in the interlocal agreement. The City would also commit to use of revenues from the 2% Voted Utility Tax (VUT) and the revenues from one-half of the 1% Non-Voted Utility Tax (NVUT) for the priorities of park land acquisition, together with maintenance and development of lands so acquired, to comply with park standards, and to keep pace with population growth before available lands are lost to development. The City would, as may be feasible, apply the remaining one-half of the 1% Non-Voted Utility Tax (NVUT) to such purposes, and in any budget year when this is not done, the City would apply the first \$500,000 of available year end savings to this purpose.

Finally, the City intends that the City and its Parks, Arts and Recreation Department will work cooperatively under an interlocal agreement with the Olympia Metropolitan Park District, as further authorized herein and as set forth in the interlocal agreement (Attachment 1).

**Section 2. Contingent Bond Issue Authorized.** If the voters approve formation of the Olympia Metropolitan Park District, the City is authorized and directed to issue general obligation bonds as soon as reasonably practicable after July 1, 2016, in such full amount as the City can reasonably and prudently issue based upon the projected revenue from the 2% Voted Utility Tax (VUT) approved in 2004 and the projected revenue of one-half of the 1% Non-Voted Utility Tax (NVUT) and within the City of Olympia's councilmanic debt capacity. The funds received from the issuance of such bonds shall be used for the sole purpose of acquiring park lands.

**Section 3. Interlocal Agreement Authorized.** If the voters of the proposed Olympia Metropolitan Park District approve its formation, the Mayor is authorized and directed to enter into an interlocal agreement with the Olympia Metropolitan Park District substantially in the form attached as Attachment 1, with such changes as the City Council deems necessary to ensure that the intent of the City as expressed herein is carried out.

**Section 4. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held legally invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected. Further, if any provision of this Ordinance is held invalid, the City intends insofar as legally possible to replace the invalidated portion with another provision to accomplish the intent of the invalidated provision.

**Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

[REMAINDER OF PAGE IS LEFT BLANK]

**Section 6. Effective Date.** This Ordinance shall take effect five (5) days after its approval by the City Council and publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

Attachment 1: Form of Interlocal Agreement between the City of Olympia and the Olympia Metropolitan Park District

**Attachment 1**

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA  
AND THE OLYMPIA METROPOLITAN PARK DISTRICT**

THIS AGREEMENT (this “**Agreement**”) between the City of Olympia, Washington (the “**City**”), a noncharter code city organized under Title 35A RCW, and the Olympia Metropolitan Park District, a municipal corporation organized under Chapter 35.61 RCW (the “**Park District**”) (together, the “**Parties**”) is effective as of \_\_\_\_\_, 2015, and is for the purposes described herein.

**RECITALS**

A. The City passed Ordinance Nos. \_\_\_\_\_ and \_\_\_\_\_ proposing formation of a metropolitan park district under Chapter 35.61 RCW and expressing its intent to cooperate with such a district to acquire, maintain, operate and improve parks and recreational facilities and programs for the future.

B. A majority of the voters voting at an election held on November 3, 2015 approved the formation of the Park District and the Park District was formed upon certification of the election results, pursuant to RCW 35.61.040, possessing all powers available to a metropolitan park district under state law.

C. The City and the Park District are each, acting independently or jointly, authorized by RCW 67.20.010 and other state law, *inter alia*, to acquire, construct, improve, control, operate and maintain parks, and other recreational facilities or services.

D. Chapter 39.34 RCW (Interlocal Cooperation Act) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage.

E. By Ordinance No. \_\_\_\_\_ of the City, the Mayor is authorized to execute this Agreement on behalf of the City.

F. By Resolution No. \_\_\_\_\_ of the Board of Commissioners of the Park District (the “District Board”), the President of the District Board is authorized to execute this Agreement on behalf of the Park District.

G. The City and the Park District desire to enter into this Agreement pursuant to Chapters 39.34 and 67.20 RCW in order to establish the framework for cooperation to acquire, maintain, operate and improve parks and recreational facilities and programs for the future.

**AGREEMENT**

The Parties enter into this Agreement in order to coordinate their efforts as authorized by Chapter 67.20 RCW and the Interlocal Cooperation Act:

1. **Purpose and Interpretation.** The City and the Park District are each, acting independently or jointly, authorized by Chapters 67.20 and 39.34 RCW, *inter alia*, to acquire, construct, improve, control, operate and maintain parks, and other recreational facilities. The purpose of this Agreement is to make the most efficient use of public funds and to avoid duplication of efforts.

2. **Park District Staffing.** Pursuant to this Agreement and as part of the consideration provided hereunder, the City may provide for staffing to implement the projects, programs and services identified in the adopted Park District budget and may provide necessary related support to the Park District, including without limitation, administrative staffing, treasury management services, legal services and similar support. These support services may be provided either in-house or through contracts with private contractors, firms or nonprofit organizations.

3. **Finances and Budgeting.** The Parties agree to participate in the budgeting process described in this Agreement. The Park District intends to pay all property taxes collected by it to the City that are not needed to cover expenses of the District, to be paid directly by the District in furtherance of the purposes set forth herein. The City agrees to apply any funds received by it from the Park District in accordance with this Agreement.

3.1. **Budget Process.** The Parties agree to the following process for limiting and controlling the Park District's annual budget and property tax levy:

3.1.1 **Finance.**

(i.) The City shall include in its annual General Fund Operating Budget revenues to support the Olympia Parks, Arts and Recreation Department (hereafter "OPARD") projects, programs and services in amounts necessary to meet or exceed the minimum funding described in this paragraph. The 2015 adopted net budget for OPARD is \$4.4 million which is 11% of the General Fund revenues calculated using the methodology in Addendum 1. This percentage so calculated will be the baseline for allocating General Fund revenues to OPARD in subsequent years, unless the City Council by resolution with a super majority vote after public hearing, determines that an exigent financial circumstance or natural disaster prevents the Council from maintaining this level of General Fund support. The Council will approve OPARD's budget and provide oversight in accordance with the City's normal budget processes. In accordance with state guidelines, the City shall account for the Park District and treat it as a Blended Component Unit and shall keep the necessary records to ensure the proper expenditure of all funds received by it for parks and recreation purposes, in accordance with this Agreement, state law and City ordinances.

(ii.) The City commits to use the 2% Voted Utility Tax (VUT) revenues to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable.

(iii.) The City commits to use one-half of the 1% Non-Voted Utility Tax (NVUT) revenues to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable.

(iv.) The City intends to allocate in its budget the remaining one-half of the Non-Voted Utility Tax (NVUT) to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable. If such budget allocation does not occur, to the extent a year end fund balance exists, then the City intends, absent an exigent financial circumstance, to allocate the first \$500,000 of that balance to such purposes.

(v.) The City intends to maintain the funding levels in (i.) and (ii.) without a time limit, and the funding levels in (iii.) until January 1, 2030, and the funding levels in (iv.) until January 1, 2026.

**3.1.2 City to Prepare Budget Request.** In conjunction with development of its own budget request, the City administration shall identify the amount of funding required from the Park District and shall prepare a Park District budget request to be presented to the District Board. The budget request shall describe the proposed expenditures of Park District revenues and shall be accompanied by an annual report documenting the status of the park and recreation projects, programs and services undertaken pursuant to this Agreement.

**3.1.3 Advisory Committee Review.** The City and the Board of the Park District shall create an advisory committee of at least five (5) persons, who shall be Olympia residents, to advise the City and District. The persons chosen for service on the advisory committee shall be knowledgeable about parks budgeting and finance, park acquisitions, development, maintenance, park standards, and funding levels. Service on the committee shall be for a four (4) year term. The advisory committee shall be referred to as the OMPD Advisory Committee and provide an annual report to the City Council and Park District Board regarding the City's compliance with the funding levels in (i.) and (iv.) in Section 3.1.1. The draft of such report shall be posted on the City's website and the public shall be afforded a reasonable opportunity of at least twenty (20) days to comment on such report prior to the report being finalized.

**3.1.4 Adoption of Budget and Levy by Park District.** The Board of the Park District shall review the budget proposal and approve a final Park District budget in accordance with state law. The Park District agrees to levy property taxes annually under RCW 35.61.210, within applicable statutory and constitutional rate and amount limitations, in amounts sufficient to fund its adopted budget.

**3.2. City Administrative Services Director to serve as Treasurer.** The Park District agrees to take such actions as are necessary under RCW 35.61.180, including obtaining the approval of the County Treasurer, to appoint the City Administrative Services Director to serve as Treasurer for the Park District. If so appointed, the City Administrative Services Director shall perform the functions of Treasurer under state law and maintain financial records on behalf of the Park District, kept in accordance with applicable generally accepted accounting principles and other applicable governmental accounting requirements. The Park District shall pay for the Treasurer's surety bond, insurance for the Board and all audit costs.

**4. Condemnation and other Exercise of Governmental Powers.** The Park District shall not exercise condemnation powers within the City of Olympia. If condemnation of property is required for Park District purposes, the City may exercise condemnation powers on the Park District's behalf. The Park District shall form no local improvement district within the City. If formation of a local improvement district is required for Park District purposes, the City may carry out the formation and may levy and collect assessments on the Park District's behalf.

## **5. Interlocal Cooperation Act Provisions.**

**5.1. Ownership of Property.** All park and recreation land, facilities and equipment that are maintained, acquired, improved or otherwise used in connection with this Agreement are and shall remain the property of the City. No joint property ownership is contemplated under the terms of this Agreement. In accordance with state law and City policy, the City retains the right to acquire or to sell or divest itself of city owned park land or facilities. Any proceeds from a sale or divestment of park land or facilities shall be dedicated to park purposes, including repaying bonds issued for park purposes.

5.2 **No Joint Board.** No provision is made for a joint board.

5.3 **Amendment.** Upon agreement of both parties reduced to writing and signed by them, this Agreement may be amended as circumstances require. Provided, the City intends that any amendment would occur only after a report regarding such amendment is issued by the OMPD Advisory Committee, and Council holds a public hearing and votes to approve such amendment by a super majority.

6. **Termination.** This Agreement may be terminated by either Party upon the provision of 180 calendar days' notice to the other party. Provided, the City intends that any action it may take to terminate will be done after Council holds a public hearing and, if such termination would have the effect of reducing the amount or duration of any of the (i.) – (iv.) funding levels in Section 3.1.1., votes to approve termination by a super majority of the City Council. Additionally, this Agreement expires upon the future dissolution of the Park District. Upon dissolution of the Park District, it is the intent of the Parties that all assets are turned over to the City. However, if the Park District has any outstanding debt or if the City has issued debt on behalf of the Park District, this Agreement shall not be terminated or the District dissolved until the debt is paid or defeased.

7. **Compliance with Other Laws.** The Parties shall comply with all applicable state and federal laws, including without limitation those regarding contracting, labor relations, minimum and prevailing wage, open public meetings, public records, and nondiscrimination.

8. **Severability.** In the event that any provision of this Agreement is held to be in conflict with an existing state statute or any future amendment thereof, such provisions shall be severable, and the remaining provisions of this Agreement shall remain in full force and effect. If any provision of this Ordinance is held invalid, the City intends, insofar as legally possible, to replace the invalidated portion with another provision to accomplish the intent of the invalidated provision.

9. **Effective Date.** This Agreement will be effective after filing or posting, as provided by law.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF OLYMPIA, WASHINGTON

OLYMPIA METROPOLITAN PARK DISTRICT

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
President of the Board of Commissioners

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Secretary of the Board of Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## ADDENDUM 1

### Olympia General Fund Appropriation for Parks Revenues Relevant For Parks % of Revenues

	2015 Budget	General Use Portion	Source	Notes
Sales Tax	\$ 18,683,610	\$ 16,398,600	P. 43 Budget	excluding currently dedicated portions
B&O Tax	\$ 5,240,000	\$ 5,240,000	P. 36 Budget	excluding currently dedicated portions
Property Tax	\$ 13,710,639	\$ 10,269,888	P. 36 Budget	excluding currently dedicated portions
Private Utility Tax	\$ 4,946,860	\$ 4,946,860	P. 36 Budget	excluding currently dedicated portions
Public Utility Tax	\$ 4,217,430	\$ 4,217,430	P. 36 Budget	excluding currently dedicated portions
<b>Total:</b>	<b>\$ 46,798,539</b>	<b>\$ 41,072,778</b>		
<b>Parks General Fund Appropriation Requirement</b>				
From Budget	\$ 5,335,445		P. 110 Budget	
Less program revenues	\$ (929,713)		P. 110 Budget	Generated by Parks activities
<b>Net Demand on General Fund</b>	<b>\$ 4,405,732</b>			
<b>Designated Tax Revenue:</b>				
	\$ 41,072,778			
<b>Parks General Fund Requirement</b>	<b>\$ 4,405,732</b>			
<b>Parks Portion</b>		<b>10.7%</b>		

**Ordinance No. \_\_\_\_\_**

**AN ORDINANCE RELATING TO AN INTERLOCAL AGREEMENT WITH THE OLYMPIA METROPOLITAN PARK DISTRICT, IF FORMATION OF THE DISTRICT IS APPROVED BY THE VOTERS WITHIN THE CITY OF OLYMPIA; APPROVING THE FORM OF AN INTERLOCAL AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE CITY.**

WHEREAS, the Olympia City Council has enacted Ordinance No. \_\_\_\_\_, previously finding that there is a need to create a stable funding source for parks including the maintenance, improvement, construction and acquisition of parks and recreation facilities and programs; and

WHEREAS, pursuant to RCW 35.61.040, if a majority of the voters voting on the ballot proposition approve of the formation of the Olympia Metropolitan Park District, the District will be created as a municipal corporation effective immediately upon certification of the election results; and

WHEREAS, state law (including Chapters 35.61, 67.20 and 84.52 RCW) authorizes metropolitan park districts to levy and impose various taxes and fees to provide ongoing funding to acquire, construct, maintain, operate and improve parks and recreation facilities; and

WHEREAS, the Olympia City Council by Ordinance No. \_\_\_\_\_ has found that it is in the best interests of the residents of Olympia to submit to the voters a ballot proposition to create the Olympia Metropolitan Park District to provide a stable funding source for the maintenance, acquisition, construction and improvement of parks and recreation facilities and programs;

WHEREAS, in 2004, the voters of Olympia approved a new utility tax of 2% for parks. The City represented to the voters that such tax revenues would be prioritized for the acquisition of park lands to meet future population demand before available lands are lost to other uses. The City projected that this tax revenue, along with the existing 1% non-voted utility tax enacted by the City in 1994, would be able to acquire approximately 500 acres of park lands over the next twenty (20) years. The City has acquired sixty-three (63) acres of park lands in the first decade, during a time of economic recession and recovery.

WHEREAS, in order to clearly describe the cooperative relationship between the Olympia Metropolitan Park District and the City of Olympia, the City Council finds that it is in the best interests of the City to enter into an interlocal agreement with the Olympia Metropolitan Park District as further described in this Ordinance and that the Mayor is authorized to sign an interlocal agreement with the newly formed District, a copy of which is attached hereto as Attachment 1;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Statement of Intent.** It is the intent of the City of Olympia that, if the voters approve formation of the Olympia Metropolitan Park District ("Olympia Metropolitan Park District" or "District") within the boundaries of the City of Olympia, the City will work in cooperation with the District, the Olympia Parks, Arts and Recreation Committee ("PRAC"), and a citizens' advisory committee consisting of five (5) persons to advise the City and the District on park acquisitions, development, maintenance, park standards and review of funding levels provided herein and in the interlocal agreement, together with other community-based neighborhood associations to ensure stable, ongoing funding to maintain, operate, acquire and improve parks, community centers, athletic fields and other recreation facilities and programs throughout the City.

Further, it is the intent of the City if the voters approve formation of the Olympia Metropolitan Park District that District funding will supplement and protect existing City of Olympia parks funding and not replace such City funding, as more specifically set forth in the interlocal agreement. The City would also commit to use of revenues from the 2% Voted Utility Tax (VUT) and the revenues from one-half of the 1% Non-Voted Utility Tax (NVUT) for the priorities of park land acquisition, together with maintenance and development of lands so acquired, to comply with park standards, and to keep pace with population growth before available lands are lost to development. The City would, as may be feasible, apply the remaining one-half of the 1% Non-Voted Utility Tax (NVUT) to such purposes, and in any budget year when this is not done, the City would apply the first \$500,000 of available year end savings to this purpose.

Finally, the City intends that the City and its Parks, Arts and Recreation Department will work cooperatively under an interlocal agreement with the Olympia Metropolitan Park District, as further authorized herein and as set forth in the interlocal agreement (Attachment 1).

**Section 2. Contingent Bond Issue Authorized.** If the voters approve formation of the Olympia Metropolitan Park District, the City is authorized and directed to issue general obligation bonds as soon as reasonably practicable after July 1, 2016, in such full amount as the City can reasonably and prudently issue based upon the projected revenue from the 2% Voted Utility Tax (VUT) approved in 2004 and the projected revenue of one-half of the 1% Non-Voted Utility Tax (NVUT) and within the City of Olympia's councilmanic debt capacity. The funds received from the issuance of such bonds shall be used for the sole purpose of acquiring park lands.

**Section 3. Interlocal Agreement Authorized.** If the voters of the proposed Olympia Metropolitan Park District approve its formation, the Mayor is authorized and directed to enter into an interlocal agreement with the Olympia Metropolitan Park District substantially in the form attached as Attachment 1, with such changes as the City Council deems necessary to ensure that the intent of the City as expressed herein is carried out.

**Section 4. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held legally invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected. Further, if any provision of this Ordinance is held invalid, the City intends insofar as legally possible to replace the invalidated portion with another provision to accomplish the intent of the invalidated provision.

**Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 6. Effective Date.** This Ordinance shall take effect five (5) days after its approval by the City Council and publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**



\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

Attachment 1: Form of Interlocal Agreement between the City of Olympia and the Olympia Metropolitan Park District

**Attachment 1**

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA  
AND THE OLYMPIA METROPOLITAN PARK DISTRICT**

THIS AGREEMENT (this "**Agreement**") between the City of Olympia, Washington (the "**City**"), a noncharter code city organized under Title 35A RCW, and the Olympia Metropolitan Park District, a municipal corporation organized under Chapter 35.61 RCW (the "**Park District**") (together, the "**Parties**") is effective as of \_\_\_\_\_, 2015, and is for the purposes described herein.

**RECITALS**

A. The City passed Ordinance Nos. \_\_\_\_\_ and \_\_\_\_\_ proposing formation of a metropolitan park district under Chapter 35.61 RCW and expressing its intent to cooperate with such a district to acquire, maintain, operate and improve parks and recreational facilities and programs for the future.

B. A majority of the voters voting at an election held on November 3, 2015 approved the formation of the Park District and the Park District was formed upon certification of the election results, pursuant to RCW 35.61.040, possessing all powers available to a metropolitan park district under state law.

C. The City and the Park District are each, acting independently or jointly, authorized by RCW 67.20.010 and other state law, *inter alia*, to acquire, construct, improve, control, operate and maintain parks, and other recreational facilities or services.

D. Chapter 39.34 RCW (Interlocal Cooperation Act) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage.

E. By Ordinance No. \_\_\_\_\_ of the City, the Mayor is authorized to execute this Agreement on behalf of the City.

F. By Resolution No. \_\_\_\_\_ of the Board of Commissioners of the Park District (the "District Board"), the President of the District Board is authorized to execute this Agreement on behalf of the Park District.

G. The City and the Park District desire to enter into this Agreement pursuant to Chapters 39.34 and 67.20 RCW in order to establish the framework for cooperation to acquire, maintain, operate and improve parks and recreational facilities and programs for the future.

**AGREEMENT**

The Parties enter into this Agreement in order to coordinate their efforts as authorized by Chapter 67.20 RCW and the Interlocal Cooperation Act:

1. **Purpose and Interpretation.** The City and the Park District are each, acting independently or jointly, authorized by Chapters 67.20 and 39.34 RCW, *inter alia*, to acquire, construct, improve, control, operate and maintain parks, and other recreational facilities. The purpose of this Agreement is to make the most efficient use of public funds and to avoid duplication of efforts.

2. **Park District Staffing.** Pursuant to this Agreement and as part of the consideration provided hereunder, the City may provide for staffing to implement the projects, programs and services identified in the adopted Park District budget and may provide necessary related support to the Park District, including without limitation, administrative staffing, treasury management services, legal services and similar support. These support services may be provided either in-house or through contracts with private contractors, firms or nonprofit organizations.

3. **Finances and Budgeting.** The Parties agree to participate in the budgeting process described in this Agreement. The Park District intends to pay all property taxes collected by it to the City that are not needed to cover expenses of the District, to be paid directly by the District in furtherance of the purposes set forth herein. The City agrees to apply any funds received by it from the Park District in accordance with this Agreement.

3.1. **Budget Process.** The Parties agree to the following process for limiting and controlling the Park District's annual budget and property tax levy:

3.1.1 **Finance.**

(i.) The City shall include in its annual General Fund Operating Budget revenues to support the Olympia Parks, Arts and Recreation Department (hereafter "OPARD") projects, programs and services in amounts necessary to meet or exceed the minimum funding described in this paragraph. The 2015 adopted net budget for OPARD is \$4.4 million which is 11% of the General Fund revenues calculated using the methodology in Addendum 1. This percentage so calculated will be the baseline for allocating General Fund revenues to OPARD in subsequent years, unless the City Council by resolution with a super majority vote after public hearing, determines that an exigent financial circumstance or natural disaster prevents the Council from maintaining this level of General Fund support. The Council will approve OPARD's budget and provide oversight in accordance with the City's normal budget processes. In accordance with state guidelines, the City shall account for the Park District and treat it as a Blended Component Unit and shall keep the necessary records to ensure the proper expenditure of all funds received by it for parks and recreation purposes, in accordance with this Agreement, state law and City ordinances.

(ii.) The City commits to use the 2% Voted Utility Tax (VUT) revenues to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable.

(iii.) The City commits to use .5% of the 1% Non-Voted Utility Tax (NVUT) revenues to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable.

(iv.) The City intends to allocate in its budget the remaining 0.5% of the Non-Voted Utility Tax (NVUT) to acquire new park land and to maintain and develop those acquired park properties, with a priority on acquisition to the extent practicable. If such budget allocation does not occur, to the extent a year end fund balance exists, then the City intends, absent an exigent financial circumstance, to allocate the first \$500,000 of that balance to such purposes.

(v.) The City intends to maintain the funding levels in (i.) and (ii.) without a time limit, and the funding levels in (iii.) until January 1, 2030, and the funding levels in (iv.) until January 1, 2026.

**3.1.2 City to Prepare Budget Request.** In conjunction with development of its own budget request, the City administration shall identify the amount of funding required from the Park District and shall prepare a Park District budget request to be presented to the District Board. The budget request shall describe the proposed expenditures of Park District revenues and shall be accompanied by an annual report documenting the status of the park and recreation projects, programs and services undertaken pursuant to this Agreement.

**3.1.3 Advisory Committee Review.** The City and the Board of the Park District shall create an advisory committee of at least five (5) persons, who shall be Olympia residents, to advise the City and District. The persons chosen for service on the advisory committee shall be knowledgeable about parks budgeting and finance, park acquisitions, development, maintenance, park standards, and funding levels. Service on the committee shall be for a four (4) year term. The advisory committee shall be referred to as the OMPD Advisory Committee and provide an annual report to the City Council and Park District Board regarding the City's compliance with the funding levels in (i.) and (iv.) in Section 3.1.1. The draft of such report shall be posted on the City's website and the public shall be afforded a reasonable opportunity of at least twenty (20) days to comment on such report prior to the report being finalized.

**3.1.4 Adoption of Budget and Levy by Park District.** The Board of the Park District shall review the budget proposal and approve a final Park District budget in accordance with state law. The Park District agrees to levy property taxes annually under RCW 35.61.210, within applicable statutory and constitutional rate and amount limitations, in amounts sufficient to fund its adopted budget.

**3.2. City Administrative Services Director to serve as Treasurer.** The Park District agrees to take such actions as are necessary under RCW 35.61.180, including obtaining the approval of the County Treasurer, to appoint the City Administrative Services Director to serve as Treasurer for the Park District. If so appointed, the City Administrative Services Director shall perform the functions of Treasurer under state law and maintain financial records on behalf of the Park District, kept in accordance with applicable generally accepted accounting principles and other applicable governmental accounting requirements. The Park District shall pay for the Treasurer's surety bond, insurance for the Board and all audit costs.

**4. Condemnation and other Exercise of Governmental Powers.** The Park District shall not exercise condemnation powers within the City of Olympia. If condemnation of property is required for Park District purposes, the City may exercise condemnation powers on the Park District's behalf. The Park District shall form no local improvement district within the City. If formation of a local improvement district is required for Park District purposes, the City may carry out the formation and may levy and collect assessments on the Park District's behalf.

#### **5. Interlocal Cooperation Act Provisions.**

**5.1. Ownership of Property.** All park and recreation land, facilities and equipment that are maintained, acquired, improved or otherwise used in connection with this Agreement are and shall remain the property of the City. No joint property ownership is contemplated under the terms of this Agreement. In accordance with state law and City policy, the City retains the right to acquire or to sell or divest itself of city owned park land or facilities.

5.2 **No Joint Board.** No provision is made for a joint board.

5.3 **Amendment.** Upon agreement of both parties reduced to writing and signed by them, this Agreement may be amended as circumstances require. Provided, the City intends that any amendment would occur only after a report regarding such amendment is issued by the OMPD Advisory Committee, and Council holds a public hearing and votes to approve such amendment by a super majority.

6. **Termination.** This Agreement may be terminated by either Party upon the provision of 180 calendar days' notice to the other party. Provided, the City intends that any action it may take to terminate will be done after Council holds a public hearing and, if such termination would have the effect of reducing the amount or duration of any of the (i.) – (iv.) funding levels in Section 3.1.1., votes to approve termination by a super majority of the City Council. Additionally, this Agreement expires upon the future dissolution of the Park District. Upon dissolution of the Park District, it is the intent of the Parties that all assets are turned over to the City. However, if the Park District has any outstanding debt or if the City has issued debt on behalf of the Park District, this Agreement shall not be terminated or the District dissolved until the debt is paid or defeased.

7. **Compliance with Other Laws.** The Parties shall comply with all applicable state and federal laws, including without limitation those regarding contracting, labor relations, minimum and prevailing wage, open public meetings, public records, and nondiscrimination.

8. **Severability.** In the event that any provision of this Agreement is held to be in conflict with an existing state statute or any future amendment thereof, such provisions shall be severable, and the remaining provisions of this Agreement shall remain in full force and effect. If any provision of this Ordinance is held invalid, the City intends, insofar as legally possible, to replace the invalidated portion with another provision to accomplish the intent of the invalidated provision.

9. **Effective Date.** This Agreement will be effective after filing or posting, as provided by law.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF OLYMPIA, WASHINGTON

OLYMPIA METROPOLITAN PARK DISTRICT

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
President of the Board of Commissioners

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Secretary of the Board of Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## ADDENDUM 1

### Olympia General Fund Appropriation for Parks Revenues Relevant For Parks % of Revenues

	2015 Budget	General Use Portion	Source	Notes
Sales Tax	\$ 18,683,610	\$ 16,398,600	P. 43 Budget	excludes dedicated portions to crim justice and safety
B&O Tax	\$ 5,240,000	\$ 5,240,000	P. 36 Budget	
Property Tax	\$ 13,710,639	\$ 10,269,888	P. 36 Budget	
Private Utility Tax	\$ 4,946,860	\$ 4,946,860	P. 36 Budget	
Public Utility Tax	\$ 4,217,430	\$ 4,217,430	P. 36 Budget	
Total:	\$ 46,798,539	\$ 41,072,778		

Parks General Fund Appropriation Requirement				
From Budget	\$ 5,335,445		P. 110 Budget	
Less program revenues	\$ (929,713)		P. 110 Budget	Generated by Parks activities
Net Demand on General Fund	\$ 4,405,732			

Designated Tax Revenue:	\$ 41,072,778
Parks General Fund Requirement	\$ 4,405,732
Parks Portion	10.7%



**TO:** Olympia City Council

**FROM:** Jim Cooper, Chair, Finance Committee

**DATE:** July 16, 2015

**SUBJECT:** Questions from July 7, 2015 City Council Meeting

1. Clarify the role of MPD Advisory Committee and its relationship to PRAC
  - a. The MPD Advisory Committee will work closely with PRAC.
  - b. Chair of PRAC could be one of five members of MPD Advisory Board.
  - c. The MPD Advisory Committee focus is primarily on use of MPD funds and strategies to reach acquisition targets.
  - d. PRAC will continue broader oversight of Parks, Arts, and Recreation policy, priorities, and funding.
  - e. The MPD Advisory Committee could meet as needed to do its work.
  - f. The City's General Government Committee could develop a more specific proposed Charter in 2016 for the MPD Board review, including areas of responsibility, member selection criteria, and regular reporting plans to PRAC, City Council, and MPD Board.
2. The ILA puts limits on Council discretion related to future funding priorities
  - a. City Council pledges to make good faith effort to reach 500-acre goal with early emphasis on "at-risk" acquisition.
  - b. "Exigent financial circumstances" still gives Council flexibility and creates sincere commitment to meet 2004 voter intent.
3. The City should complete the Parks Plan first
  - a. We have a good sense of the priorities from eight neighborhood meetings, the Elway survey, months of citizen input, and Oly Speaks.
  - b. The big six priorities are clear. The public process also demonstrated a public desire to focus on acquisition of properties that are at risk first, then come back to development projects in the future. The work of the MPD Board, PRAC, and the MPD Advisory Committee in 2016 will be to advise the City Council on priorities for use of MPD funds.
  - c. Citizen support for maintenance dollars, major repairs and development of park sites is also clear. Without new revenues, none of these goals or priorities is adequately met.
  - d. An increased revenue base for parks will allow for adoption of a more complete Parks Plan, and will also give a high level of confidence to the City's ability to achieve the goals established by the community.
  - e. Timing for a public decision on more parks funding is good. Lots of momentum from the Parks Plan outreach, LBA campaign, work of Capital Vista and others. The economy is strong.





## City Council

### Approval of an Ordinance Revising Zoning of the LOTT Wastewater Treatment Facility and Associated Maps, and Other Housekeeping Changes that Reflect Prior Council Actions

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 4.J  
**File Number:** 15-0655

---

**Type:** ordinance **Version:** 1 **Status:** 1st Reading-Consent

---

#### **Title**

Approval of an Ordinance Revising Zoning of the LOTT Wastewater Treatment Facility and Associated Maps, and Other Housekeeping Changes that Reflect Prior Council Actions

#### **Recommended Action**

##### **Planning Commission Recommendation:**

Approve the LOTT zoning map amendment as proposed. (On February 26, 2015, the Land Use and Environment Committee was briefed regarding this and other Comprehensive-Plan-implementing code amendments; however the Committee did not issue a formal recommendation.)

##### **City Manager Recommendation:**

Move to approve attached ordinance on first reading and forward to second reading.

#### **Report**

##### **Issue:**

To ensure consistency between the City's development regulations and the updated Comprehensive Plan adopted in December of 2014, a variety of code amendments have been proposed by City staff. This particular amendment would change the land use zoning of the site of the LOTT Alliance (Lacey -Olympia-Tumwater-Thurston) wastewater treatment plant in downtown Olympia from "Industrial" to "Urban Waterfront" consistent with the updated Plan's Future Land Use Map. This zoning map amendment also includes a number of other miscellaneous 'clean-up' changes to the map as described below.

##### **Staff Contact:**

Todd Stamm, Principal Planner, Community Planning and Development Department, 360.753.8597

##### **Presenter:**

Consent agenda item - not applicable.

##### **Background and Analysis:**

From early in the 1960s until 1981, generally all of the peninsula north of State Avenue between East

and West Bays was in a 'Heavy Industry' zone. In 1981 the City created a new 'Central Waterfront' zone (now termed Urban Waterfront) and applied it to lands along East Bay and generally south of what is now Market Street. However, two blocks including the LOTT wastewater treatment plant remained in the Industrial category. In 1995 the City expanded the Urban Waterfront zone to the north beyond Market Street to include what is now the Farmer's Market, Batdorf and Bronson coffee roasters, and adjoining land. As a result, the LOTT industrial zone is now surrounded on all sides by Urban Waterfront zoning and by light industrial, retail, marine services, the Hands-on-Children museum, and similar uses.

Washington's Growth Management Act requires that development regulations must be "consistent with and implement the comprehensive plan." RCW 36.70A.040. The recently adopted update of Olympia's Comprehensive Plan changed the future land use designation of the LOTT wastewater treatment plant site from "Industrial" to "Urban Waterfront." The proposed ordinance (attached) would make a similar change to the development code's Zoning Map. LOTT Alliance's 'no objection' position is set forth in the attached letter.

The Plan describes Urban Waterfront as, "Consistent with the State's Shoreline Management Act, this designation provides for a compatible mix of commercial, light industrial, limited heavy industrial, and multifamily residential uses along the waterfront." In contrast, the Industrial District "is intended to provide for the continuation and development of heavy manufacturing industries in locations where they will be compatible with other similar uses, and which do not negatively impact adjacent land uses."

Nine acres of the LOTT site are currently in the Industrial zoning category, while the remainder is designated as Urban Waterfront. Both the Industrial and Urban Waterfront zones provide for wastewater treatment plants as permitted uses. The existing facility - although originally located entirely within the Industrial zone - now spans the zoning line and extends into the Urban Waterfront category. The attached summary, which was produced for a neighborhood informational meeting, provides more details comparing the building size and land use limitations of the two zones. In the City staff's opinion, the continuing designation of this portion of the treatment plant as 'Industrial' could lead to a misimpression that in the near future it may be converted to industrial uses - such a misunderstanding could 'chill' development of neighboring properties for uses not compatible with heavy industry.

The criteria for evaluating a rezone are set forth in Olympia Municipal Code 18.59.050 and 18.59.055. In summary, they require that: (a) Any rezone be consistent with the Plan's Future Land Use Map; (b) The rezone maintain the public health, safety, or welfare; (c) The rezone be consistent with other development regulations; (d) The rezone be compatible with neighboring zoning; and (e) Public facilities be adequate for the new zone. These criteria provide that both Urban Waterfront and Urban Waterfront-Housing zones are consistent with the Urban Waterfront land use category. Following a public hearing on June 16, 2014, the Planning Commission deliberated; found that the proposal conformed to the Plan and the criteria of the code, and on July 7 recommended approval of this rezone.

#### Accompanying Revisions of the Zoning Map

Any amendment of the City's "Official Zoning Map" requires an ordinance and action of the Council. Such actions are not without administrative costs. As a result, over time the City has accumulated a set of other Zoning Map changes that staff proposes to make concurrently with this rezone. The staff

proposes that in addition to the LOTT rezone, the Official Zoning Map be revised as follows:

Street Names: The version of the Zoning Map adopted in 2013 included few street names. The map would be revised to correct this oversight and improve ease of use by adding many more street names to the Map.

Annexations: The city limits shown on the Zoning Map would be revised to reflect the recent annexations of the three 'unincorporated islands' by the City.

WSECU Rezone: This rezone of the south half of Block 62 of Sylvester's Addition from Urban Residential to Downtown Business was prospectively granted over ten years ago. This is the site of the Washington State Employees Credit Union (WSECU) offices at 330 Union Avenue SE. A 2003 development agreement with WSECU resulting from a rezone request from the property owner provided that if this office building was built as proposed, the City would rezone this site. The office building was constructed as agreed. This map change would implement this agreement.

'Village' Approvals: To provide appropriate notice to the general public, Olympia's development code provides that the "master plan" approvals of urban and neighborhood villages granted by City Council are to be noted on the Zoning Map. This amendment would add notes regarding approvals and modifications previously granted for Woodbury Crossing, the Village at Mill Pond, and Briggs Village developments.

Planned Residential Developments: Similarly to 'villages,' Olympia's code provides that the lot-by-lot limitations imposed on mixed-residential "planned residential developments" approved by the Council are to be referenced on the Zoning Map. This amendment would add those notes with regard to the Grass Lake Village (a 'village' in name, but not by zoning) and Bayhill residential subdivisions on the north side of Harrison Avenue which were approved in 2003 and 2005, respectively.

Design Review map: The City's land use zoning is also the background of the 'Official Design Review Map' of the City, which displays the design review districts and corridors. Thus this ordinance also provides for updating the 'zoning layer' in the background of that Map.

These changes are administrative, clerical and 'house-keeping' in nature and thus have not been subject to further public review independent of the original actions described above. Upon final approval of the attached ordinance, the Mayor would be presented with copies of both the Zoning Map and a revised Design Review Map (which has the zoning as an underlying layer) for signature consistent with the ordinance.

**Neighborhood/Community Interests (if known):**

Public interest has been limited to the comments from the LOTT Alliance (attached) and other supportive public comments.

**Options:**

1. Approve ordinance on first reading as proposed.
2. Direct revision of proposed ordinance.
3. Refer to Land Use and Environment Committee for review.
4. Decline to amend Zoning Map.

**Financial Impact:**

None anticipated.

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING THE OFFICIAL ZONING MAP OF OLYMPIA, UPDATING THE RELATED OFFICIAL DESIGN REVIEW MAP, AND, IN PARTICULAR, REVISING THE ZONING OF THE LOTT WASTEWATER TREATMENT FACILITY FROM INDUSTRIAL TO URBAN WATERFRONT AND OTHER HOUSEKEEPING CHANGES THAT REFLECT PRIOR ACTIONS OF THE CITY COUNCIL.**

WHEREAS, on June 16, 2014, the Olympia Planning Commission received a briefing on the proposal to amend the Official Zoning Map of Olympia to change the land use zoning of the LOTT Alliance wastewater treatment plant site from Industrial to Urban Waterfront, held a public hearing on that same date, and deliberated on July 7, 2014; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended amendments to the Official Zoning Map as described, the area of the map amendment encompasses approximately nine acres; and

WHEREAS, pursuant to RCW 43.21C.450, this action is exempt from the State Environmental Policy Act (SEPA); and

WHEREAS, this zoning map amendment is consistent with the City of Olympia Comprehensive Plan's Future Land Use Map and is specifically enacted to implement an aspect of the updated Plan approved by the City on December 16, 2014; and

WHEREAS, this zoning map amendment meets the goals and requirements of the Growth Management Act; and

WHEREAS, it is efficient and effective to concurrently adopt other clerical 'house-keeping' amendments of the Official Zoning Map, which reflects prior actions of the City Council, specifically (1) the addition of street names to the zoning map, (2) revision of the city limits to reflect areas annexed by (areas commonly referred to as "islands"), (3) revision of the zoning of the south half of block 62 of Sylvester's Addition subdivision (WSECU site) from Urban Residential to Downtown Business as agreed to by the City Council in that development agreement dated October 20, 2003, (4) the addition of map notes referencing master planned development Ordinances 6655, 6773, and 6896, regarding Woodbury Crossing, the Village at Mill Pond, and Briggs Village, respectively, and (5) the addition of map notes referencing the Grass Lake Village and Bayhill Planned Residential Development final plats, which limit land uses as provided by Olympia Municipal Code 18.56.080(D); and

WHEREAS, the zoning map forms the base layer of the Official Design Review Map of the City of Olympia and it is therefore necessary to update the Official Design Review Map to reflect the zoning map revisions described above; and

WHEREAS, Chapter 35A.63 and 36.70 RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of Official Zoning Map and Official Design Review Map.** The Official Zoning Map of Olympia and the related Official Design Review Map of Olympia, as referenced by Olympia Municipal Code Sections 18.02.160 and 18.100.080 and as shown on the maps attached hereto as Exhibits A and B respectively are hereby amended and adopted.

**Section 2. Official Maps.**

**A.** The City Manager or his designee is authorized to prepare such maps reflecting this Ordinance. The Mayor is authorized but not required to sign an Official Zoning Map and Official Design Review Map reflecting this Ordinance.

**B.** Copies of the Official Zoning Map and the Official Design Review Map are and shall be retained on file with the City Clerk.

**Section 3. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 4. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 5. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

*Darren Nienaber DCA*

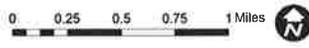
\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

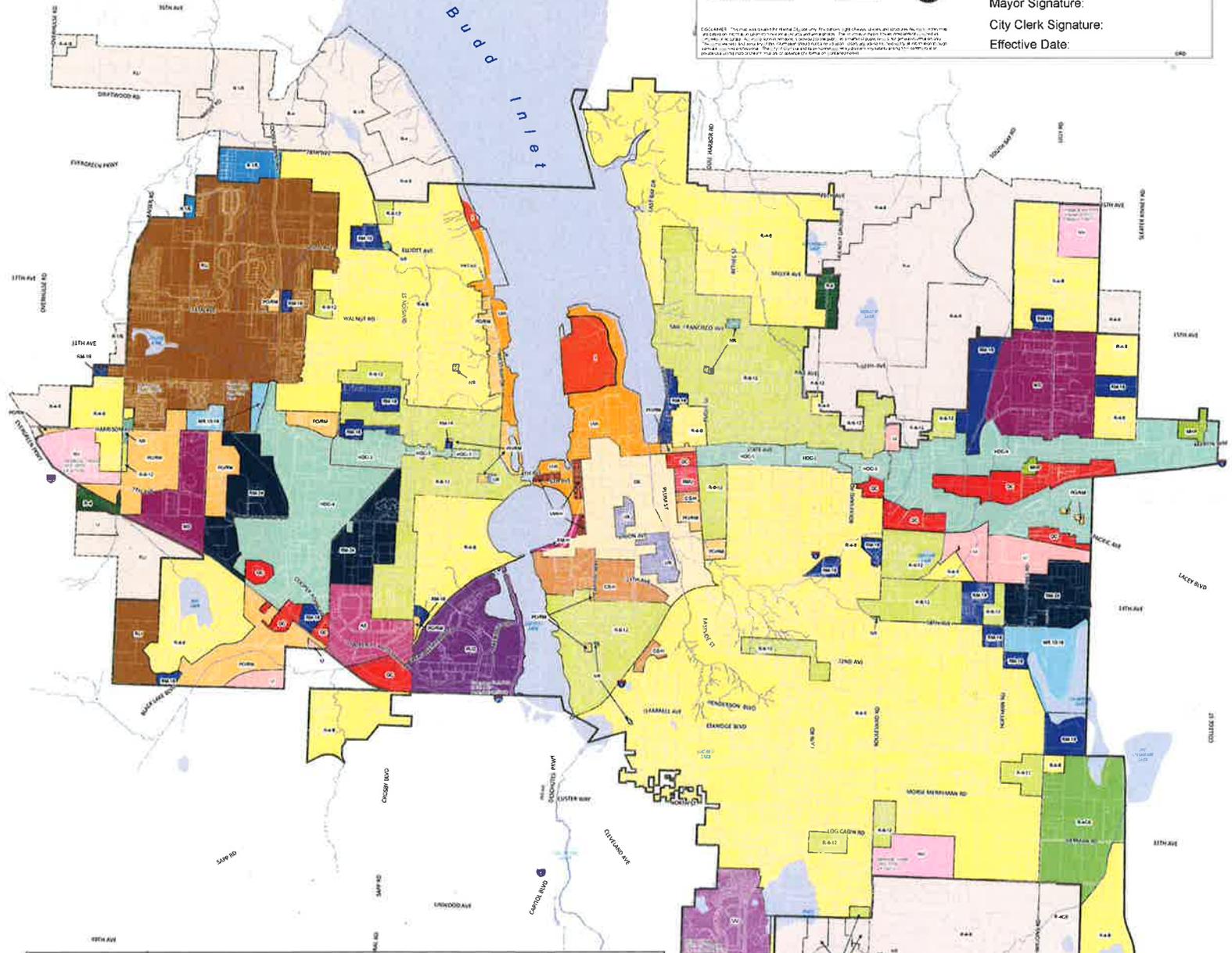
**PUBLISHED:**

# 2015 DRAFT ZONING MAP



Mayor Signature:  
City Clerk Signature:  
Effective Date:

DISCLAIMER: This map is subject to change and is not intended to be used as a legal document. It is provided for informational purposes only. The City of Olympia reserves the right to amend, modify, or delete any information on this map at any time without notice. The information on this map is not intended to be used as a legal document. It is provided for informational purposes only. The City of Olympia reserves the right to amend, modify, or delete any information on this map at any time without notice.



## Zoning Map Legend

	Olympia City Limits		RESIDENTIAL 1 UNIT PER 5 ACRE
	Urban Growth Area		MIXED RESIDENTIAL 7-13 UNITS
<b>Zone Name</b>			MIXED RESIDENTIAL 10-18 UNITS
	HDC-1 HIGH DENSITY CORRIDOR 1		RESIDENTIAL MULTIFAMILY 18 UNITS
	HDC-2 HIGH DENSITY CORRIDOR 2		RESIDENTIAL MULTIFAMILY 24 UNITS
	HDC-3 HIGH DENSITY CORRIDOR 3		SINGLE-FAMILY RESIDENTIAL (CHAMBERS BASIN)
	HDC-4 HIGH DENSITY CORRIDOR 4		SINGLE-FAMILY RESIDENTIAL 4
	AUTO SERVICES		SINGLE-FAMILY RESIDENTIAL 4-8
	COMMERCIAL SERVICE HIGH DENSITY		TWO FAMILY RESIDENTIAL 6-12
	COMMUNITY ORIENTED SHOPPING CENTER		MANUFACTURED HOUSING PARK
	DOWNTOWN BUSINESS		RESIDENTIAL LOW IMPACT
	GENERAL COMMERCIAL		RESIDENTIAL MIXED USE
	INDUSTRIAL		PLANNED UNIT DEVELOPMENT
	LIGHT INDUSTRIAL		NEIGHBORHOOD VILLAGE
	HIGH RISE MULTIFAMILY		URBAN RESIDENTIAL
	MEDICAL SERVICE		URBAN VILLAGE
	PROFESSIONAL OFFICE/RESIDENTIAL MULTIFAMILY		URBAN WATERFRONT
	NEIGHBORHOOD RETAIL		URBAN WATERFRONT HOUSING

2015 DRAFT DESIGN REVIEW MAP

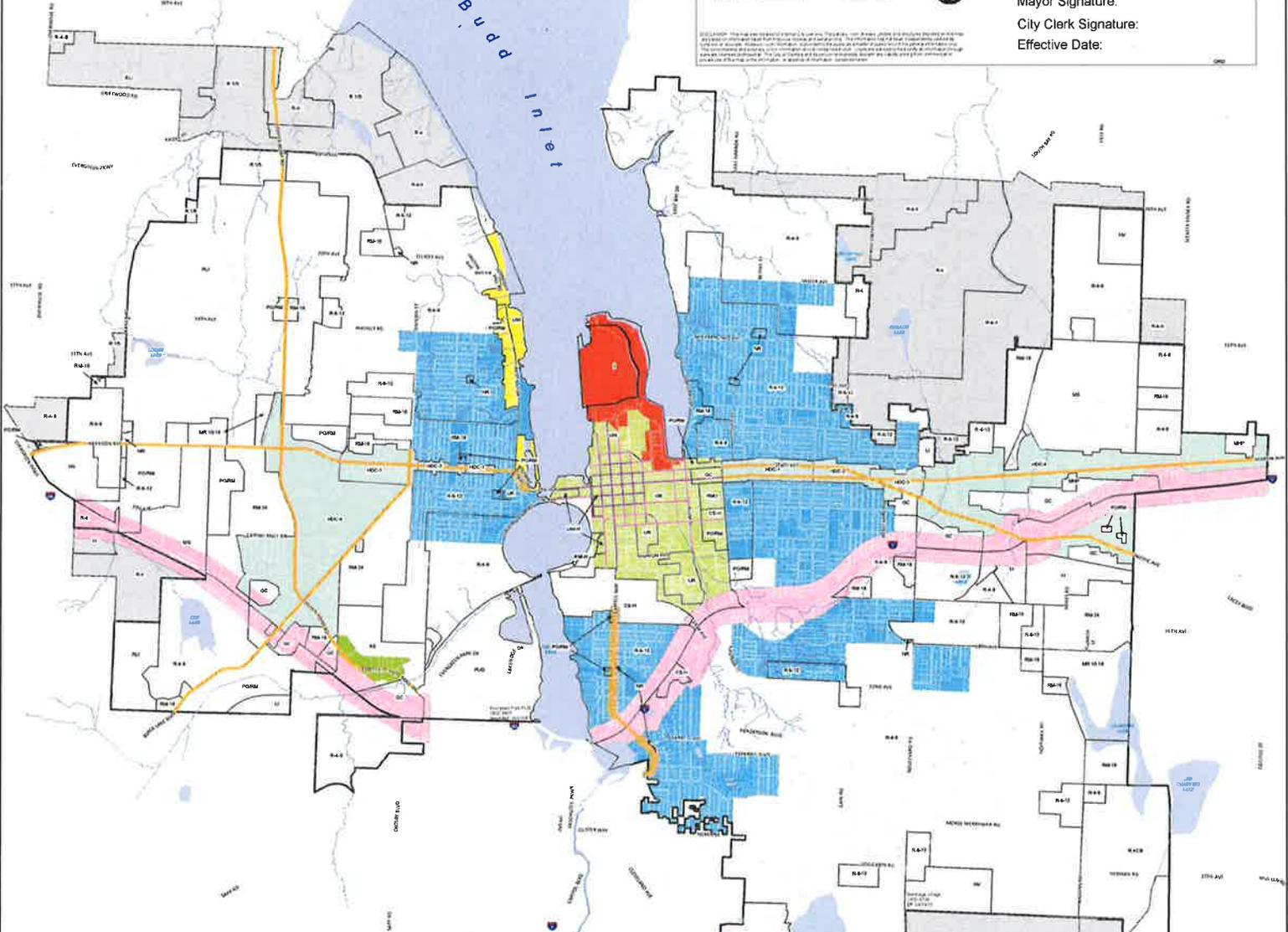


Mayor Signature:

City Clerk Signature:

Effective Date:

DISCLAIMER: This map was prepared for the City of Olympia, Washington, and is not intended to constitute a contract or any other legal instrument. It is provided for informational purposes only. The City of Olympia is not responsible for any errors or omissions on this map. The user of this map is advised to verify the accuracy of the information shown on this map with the City of Olympia Planning Department. The City of Olympia is not responsible for any damages, including consequential damages, arising from the use of this map. The City of Olympia is not responsible for any damages, including consequential damages, arising from the use of this map.



Design Review Map Legend

- Olympia City Limits
- Urban Growth Area

Design Review District Name

- AUTO ORIENTED DISTRICT
- DESIGN REVIEW CORRIDOR
- DOWNTOWN DISTRICT
- FREEWAY CORRIDOR
- HIGH DENSITY CORRIDOR
- INFILL REGULATIONS
- PEDESTRIAN OVERLAY STREET A
- PEDESTRIAN OVERLAY STREET B
- PORT DESIGN DISTRICT
- RESIDENTIAL SCALE CORRIDOR
- WEST BAY DRIVE DISTRICT

Pedestrian Streets

- A
- B
- Design Review Corridors

Zoning Code Name

- HC0-1 HIGH DENSITY CORRIDOR 1
- HC0-2 HIGH DENSITY CORRIDOR 2
- HC0-3 HIGH DENSITY CORRIDOR 3
- HC0-4 HIGH DENSITY CORRIDOR 4
- AS AUTO SERVICES
- CSH COMMERCIAL SERVICE HIGH DENSITY
- COB COMMUNITY ORIENTED SHOPPING CENTER
- DB DOWNTOWN BUSINESS
- GC GENERAL COMMERCIAL
- I INDUSTRIAL
- LI LIGHT INDUSTRIAL
- HMF HIGH RISE MULTIFAMILY
- MS MEDICAL SERVICE
- POF PROFESSIONAL OFFICE/RESIDENTIAL MULTIFAMILY
- NR NEIGHBORHOOD RETAIL
- MR 7-12 MIXED RESIDENTIAL 7-12
- MR 10-18 MIXED RESIDENTIAL 10-18 UNITS
- R1 RESIDENTIAL 1 UNIT PER 5 ACRE
- RM18 RESIDENTIAL MULTIFAMILY 18
- RM24 RESIDENTIAL MULTIFAMILY 24 UNITS PER ACRE
- RCB SINGLE FAMILY RESIDENTIAL (CHAMBERS BASIN)
- R4 SINGLE FAMILY RESIDENTIAL 4
- R4.4 SINGLE FAMILY RESIDENTIAL 4.6
- R6-12 TWO FAMILY RESIDENTIAL 6-12
- MHP MANUFACTURED HOUSING PARK
- RL RESIDENTIAL LOW IMPACT
- RMU RESIDENTIAL MIXED USE
- PUD PLANNED UNIT DEVELOPMENT
- NV NEIGHBORHOOD VILLAGE
- UR URBAN RESIDENTIAL
- UV URBAN VILLAGE
- UW URBAN WATERFRONT
- UWH URBAN WATERFRONT HOUSING



# LOTT ALLIANCE WASTEWATER TREATMENT PLANT ZONING

May 22, 2014

The update of Olympia's Comprehensive Plan now being considered by the City Council has led to a review of the City's current zoning map. One of the sites that the staff has identified for a possible change is a portion of LOTT's downtown property north of Adams Street. The staff is now seeking public comment on this possibility. Comments and questions should be directed to Todd Stamm, Principal Planner, at city hall at 360.753.8597 or [tstamm@ci.olympia.wa.us](mailto:tstamm@ci.olympia.wa.us). Note that before any decisions are made, the Olympia Planning Commission would hold a public hearing and review the proposal – and any final decision would be made by the City Council.



## **Current Land Use**

### **Zoning:**

Industrial (I)

### **Being Considered:**

Change to Urban Waterfront (UW)

### **Options:**

Retain Industrial zoning; change to Urban Waterfront zoning; or place in Urban Waterfront zone, but impose 45-foot height limit instead of standard 65-foot limit. See next page for a basic comparison of the two zones.

**Why change?** Wastewater treatment facilities are allowed by both the Industrial and Urban Waterfront zones. In fact, the treatment plant has outgrown the industrial designation on the map above and now extends into the surrounding Urban Waterfront area. LOTT's use of this portion of their property is not expected to change. However, designation of a portion of the LOTT site as Industrial does result in this site being treated as potentially occupied by heavy industry by appraisers of adjacent land. City regulations similarly require soundproofing of nearby buildings as if the LOTT plant will someday be an industrial site. Removing the Industrial designation would avoid such impressions, without affecting LOTT activities.

**New Future (long-term) Land Use designation being considered for this site as part of the Comprehensive Plan: “Urban Waterfront.** Consistent with the State’s Shoreline Management Act, this designation provides for a compatible mix of commercial, light industrial, limited heavy industrial, and multifamily residential uses along the waterfront.”

In general the Urban Waterfront zone is intended as a mixed use area near the waterfront of downtown and along West Bay, with view protection provisions. The zone would allow most businesses, but auto-oriented business such as service stations, auto sales and drive-through restaurants are prohibited. Although heavy industry is prohibited, most forms of light industry are allowed. Residential uses are generally allowed, except for low-density uses like single-family homes. Medical services requiring overnight stays are generally prohibited. Most public facilities, including wastewater treatment plants, are allowed, although some such as jails require special approval.

In contrast, the Industrial zone is intended for heavy manufacturing and other industry. Commercial uses are generally limited to those that commonly occur in industrial areas. Residential uses are prohibited, and even government offices require a special ‘conditional use’ approval.

Note that specific lists of permitted uses can be provided upon request. Development standards of the two zones are outlined below:

**DEVELOPMENT STANDARDS - LOTT SITE COMPARISON**

<b>STANDARD</b>	<b>Industrial Zone</b>	<b>Urban Waterfront</b>
<b>MINIMUM LOT SIZE</b>	No minimum.	No minimum.
<b>FRONT YARD SETBACK</b>	No minimum.	No minimum; however, see Chapter <a href="#">18.100</a> for design guidelines for pedestrian access and view corridors
<b>REAR YARD SETBACK</b>	No minimum.	No minimum; however, see OMC <a href="#">18.100</a> for design guidelines for pedestrian access and view corridors
<b>SIDE YARD SETBACK</b>	No minimum.	No minimum; however, see Chapter <a href="#">18.100</a> for design guidelines for pedestrian access and view corridors
<b>MAXIMUM BUILDING HEIGHT</b>	50 feet	65', plus two additional residential stories may be built. See OMC <a href="#">18.06.100(A)(2)(b)</a>
<b>MAXIMUM BUILDING COVERAGE</b>	1 sq. ft. of floor area per sq. ft. of land area	100% for properties not between the shoreline and the nearest upland street
<b>MAX. DEVELOPMENT COVERAGE</b>	100%	100% development coverage

June 16, 2014

City of Olympia Planning Commission  
c/o Todd Stamm, Principal Planner  
Olympia Community Planning and Development Department

Dear Mr. Stamm:

This letter is in regards to the City of Olympia's proposal to rezone portions of the Budd Inlet Treatment Plant property from Industrial to Urban Waterfront. After reviewing this proposal with you, as well as our Board of Directors, senior management team, and key staff, we have determined that this change is not likely to negatively affect our operations or future facilities improvements. Accordingly, the LOTT Clean Water Alliance has no objections to this rezone proposal as it currently exists.

Sincerely,



Richard L. Hughes  
General Counsel



## City Council

### Consider the Department of Ecology's Required and Recommended Changes to the City's Shoreline Master Program

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 6.A  
**File Number:** 15-0719

---

**Type:** decision **Version:** 1 **Status:** Other Business

---

#### **Title**

Consider the Department of Ecology's Required and Recommended Changes to the City's Shoreline Master Program

#### **Recommended Action**

##### **City Manager Recommendation:**

Consider required and recommended changes from the Department of Ecology pertaining to the City's proposed Shoreline Master Program (SMP), and move to direct staff to notify the Department of Ecology (Ecology) that the City accepts these changes.

#### **Report**

##### **Issue:**

The Ecology has completed its review of the City's proposed SMP and has prepared a list of required changes and recommended changes. The required changes are changes that must be made to the SMP in order to be in compliance with the Shoreline Management Act and the Washington Administrative Code guidance and for the City's SMP to be approved by the Department of Ecology. Adoption of the recommended changes is discretionary, however, generally they help to provide clarity to the document and staff supports their adoption.

#### **Staff Contact:**

Keith Stahley, Director Community Planning and Development Department 360.753.8227

#### **Presenter(s):**

Keith Stahley, Director Community Planning and Development Department  
Todd Stamm, Principal Planner

#### **Background and Analysis:**

The Land Use and Environment Committee considered the Department of Ecology's required and recommended changes at its June 18, 2015 meeting. They unanimously recommend that City Council notify Ecology that the City accepts the required and recommended changes to the SMP and that staff and the Ecology continue to work to finalize language and technical information in the recommended changes.

Staff has prepared a table that helps to clarify the impact of the recommended changes on Olympia's SMP. The last column contains specific comments and recommendations on suggested responses to Ecology's recommended changes. It is included as **Attachment 1**. Staff is continuing to work with Ecology to refine two recommendations related to mapping the shoreline environmental designation transition points and to clarify language related to the nonconforming section. Staff believes that these are non-substantive changes and should not affect City Council's direction.

The City of Olympia has been engaged in the update of its Shoreline Master Program since 2007 when it received a grant from the Department of Ecology to begin the process in collaboration with the Cities of Lacey and Tumwater. Both Lacey and Tumwater have already received Ecology's comments and adopted their SMPs.

The City approved its draft SMP in October of 2013 and formally submitted the draft to the Department of Ecology in January of 2014. Over the past 18 months the Department of Ecology has reviewed the City's draft SMP in detail and developed the attached list of required changes and recommended changes. (**See Attachment 2 hyperlink: Attachment B and Attachment C**) These changes are generally technical in nature and have limited substantive impact on the City's proposed SMP. All documents related to the Department of Ecology's review can be found at this link.

In its transmittal letter the Department of Ecology notes the extensive public process that the City undertook (**See Attachment 2 hyperlink: Director of Ecology's Conditional Approval Letter**). Ecology's response also makes clear that with respect to the key issues the City's chosen approach is in compliance with the Shoreline Management Act and the Washington State Administrative Code. (**See Attachment 2 hyperlink: Attachment D the Responsiveness Summary: City of Olympia Locally Adopted Shoreline Master Program (SMP) for further information**).

A complete draft of the SMP is included as **Attachment 3** and includes all of the Department of Ecology's required and recommended changes in legislative format.

#### **Neighborhood/Community Interests:**

The Shoreline Master Program is a document that has widespread impacts and had significant community involvement and interest during the Planning Commission's and City Council's consideration.

#### **Options:**

1. Review and accept the Department of Ecology's Required and Recommended changes.
2. Review the Department of Ecology's Required and Recommended changes and direct staff to schedule additional time on a future Council Agenda for further review and deliberation.

#### **Financial Impact:**

No known financial impact.

The following changes are recommended to clarify elements of the City's updated SMP.

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikerthrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
A	Chapter 1.1 Page 1	Introduction	Washington's Shoreline Management Act (SMA or Act) (revised Code of Washington [RCW] 90. <del>58</del> 48) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum.	<i>This change is recommended to correct an incorrect citation.</i>	City staff concurs
B	Chapter 1.1 (B) Page 3	City's Role in Implementing the SMA	In addition, policy statements are developed to provide a bridge between the goals of the Master Program and the use <u>and modification activity</u> regulations developed to address different types of <u>activities and</u> development along the shoreline.	<i>The first change is recommended because policies inform regulations relating to shoreline modifications as well as to shoreline uses (section 2.30). The second change is recommended to clarify that all development and uses within shoreline jurisdiction, regardless of whether or not a development (as defined in the SMA) permit is required, must be carried out consistent with the Master Program.</i>	City staff concurs
C	Chapter 1.1 Page 3	City's Role in Implementing the SMA	<del>The purposes of this Master Program are:</del>	<i>This change is recommended to remove what appears to be a typographic error (typo).</i>	City staff concurs
D	Chapter 1.1 Page 4	How to Use This Document	If you intend to develop or use lands adjacent to a shoreline ( <u>"shoreline jurisdiction" generally includes water areas and lands within 200 feet of the ordinary high water mark - see chapter 3.16 for the complete definition</u> ), consult first with the City of Olympia's Community Planning and Development Department to determine if you need a shoreline permit; they will also tell you about other necessary government approvals.	<i>This change is recommended because the term "shoreline jurisdiction" is used multiple times in Sections 1 and 2 of the document but is not defined until Section 3.16.</i>	City staff concurs
E	Chapter 2.10 (G) Page 14	Shoreline Residential Management Policies	Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures <del>water</del> <u>water</u> -ward of OHWM.	<i>This change is recommended to correct a typo.</i>	City staff concurs
F	Chapter 2.11 (B) Page 14	Urban Intensity Management Policies	Shorelines in this <u>shoreline environment designation (SED)</u> are highly altered and restoration opportunities are limited.	<i>This change/addition is recommended for clarity; this is the first time this acronym is used in the document.</i>	City staff concurs
G	Chapter 2.11 (D) & (E) Page 14	Urban Intensity Management Policies	D. <del>W</del> <u>Preferred uses include</u> water-oriented recreation such as trails and viewing areas, water access, water-related recreation, active playgrounds, and significant art installations, performance space, or interpretive features. <del>;</del> <u>and</u> E. Provide for the restoration, repair and replacement of Percival Landing including consideration of sea level rise protection. <del>;</del> <u>and</u>	<i>These changes are recommended to correct what appear to be grammatical errors. The first sentence was incomplete as written. The second sentence (and the first) were written as if they were part of a series ("and"), but this relationship is not clear.</i>	Staff recommends that the second sentence instead be edited to read, " <u>The Urban Intensity environment provides</u> for the restoration, repair and replacement of Percival Landing and consideration of sea level rise protection.
H	Chapter 2.32 (C) and (F) Page 23	Fill Policies	C. Fill should be allowed to accommodate berms or other structures to prevent flooding caused by sea level rise. Any such fill should include mitigation assuring no net loss of ecological functions and system- <del>s</del> <u>wide</u> processes.	<i>The first change is recommended to correct a typographical error. See also required change E. The second change is recommended for administrative clarity at the request of City staff; "approved" may suggest the activity must be approved by a specific plan or</i>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
			F. Fill for the purpose of creating new uplands should be prohibited unless it is part of an <del>approved</del> <u>authorized</u> restoration activity.	<i>document. 'Authorized' is more all-encompassing.</i>	
I	Chapter 2.33 (J) Page 24	Moorage Policies	J. Encourage design elements that increase light penetration to the water below existing or new moorage facilities, such as increasing the structure's height, modifying orientation and size, and use of grating as a surface material. No new over-water <del>coverage</del> <u>covered</u> moorage or boathouses should be allowed.	<i>This change is recommended to correct a typo.</i>	City staff concurs
J	Chapter 2.34 (L) Page 24	Restoration and Enhancement Policies	L. <del>No p</del> Permanent <u>in-stream</u> structures should be <del>permitted</del> <u>prohibited within streams</u> except for restoration and enhancement structures, and <del>road</del> <u>transportation</u> and utility crossings as described elsewhere in this Program. <del>All such</del> <u>in-stream</u> structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitat and species.	<i>This change is recommended for clarity, readability and consistency. See also required change H.</i>	City staff concurs
K	Chapter 2.35 (D) Page 25	Shoreline Stabilization Policies	D. The reconstruction or expansion of existing hard armoring should only be permitted where necessary to protect an existing primary structure <u>or legally existing shoreline use</u> that is in danger of loss or substantial damage, and where mitigation of impacts is sufficient to assure no net loss of shoreline ecological functions and processes.	<i>This change is recommended because the sentence includes reference to reconstruction of existing hard armoring. WAC 173-26-231 (3)(a)(iii)(C) allows replacement stabilization structures to protect principal uses in addition to just structures. Furthermore, the overall shoreline modification principles in WAC 173-26-231 (2)(a) allow shoreline modifications when necessary to support or protect legally existing shoreline uses.</i>	City staff supports this change. It would allow the same protection of valuable land uses in addition to valuable structures. Many such uses exist along Olympia's shorelines and as noted, this approach is supported by state rules.
L	Chapter 3.2 (C) Page 26	Relationship to Other Plans and Regulations	C. In the event Olympia's Shoreline Program conflicts with other applicable City policies or regulations, all regulations shall apply and unless otherwise stated, the <del>more</del> provisions most protective of the resource shall prevail.	<i>This change is recommended to correct a typo.</i>	City staff concurs
M	Chapter 3.3 (C) Page 28	Interpretation and Definitions	<p><del>Access, public: The opportunity for the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the State, and to view the water and the shoreline from adjacent locations.</del></p> <p><b>Administrator:</b> That person designated by the City <u>of Olympia</u> to administer the provisions of Olympia's Shoreline Program. <u>References to 'the City' in this Shoreline Program may be construed as referring to the Administrator.</u></p> <p><b>Alteration:</b> Any human-induced change in existing conditions <del>on</del> <u>in</u> a shoreline, <u>critical area</u> and/or its buffer. Alterations include, but are not limited to excavation, grading, filling, channelization (straightening,</p>	<p><i>This first change is recommended because public access is already defined in this section (page 32).</i></p> <p><i>This change is recommended for administrative clarity at the request of City staff.</i></p> <p><i>This change is recommended to correct a typo and for clarity; shoreline buffers have not been established by name in the SMP. This change would align this definition with the</i></p>	<p>Staff recommends that this first clause instead read: "Access, public: See 'public access' definition below."</p> <p>The staff concurs with all of the other recommendation in "M."</p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
			<p>deepening or lining of stream channels except dredging of sediment or debris alone), dredging, clearing vegetation, draining, constructing structures, compaction, or any other activity that changes the character of a site.</p> <p><u>Compensation Project: Projects that compensate for unavoidable impacts by replacing or providing substitute resources or environments.</u></p> <p><b>Shoreline Setback:</b> The horizontal distance required between an upland structure or improvement and the Ordinary High Water Mark; usually measured in feet. (Note that in general setbacks are only applicable to structures having a height greater than 30 inches.) <u>Shoreline setbacks outlined in Table 6.3 include and are not in addition to the VCAs outlined in Table 6.3.</u></p> <p><b>Vegetation Conservation Area:</b> That area within which vegetation conservation actions take place, as required by this Chapter. Vegetation management provisions may be independent of a permit or approval requirement. <u>VCAs outlined in Table 6.3 are measured from the Ordinary High Water Mark and are located within the shoreline setbacks outlined in Table 6.3.</u></p>	<p><i>definition of enhancement in this subsection.</i></p> <p><i>This change (addition) is recommended for administrative clarity at the request of City staff.</i></p> <p><i>The changes to these two definitions are recommended for administrative clarity at the request of City staff; addition of this language will help make clear that the VCA is part of the larger setback and not in addition to the setback.</i></p>	
N	Chapter 3.8 Page 36	Shoreline Variances	<p><del>18.34.240 G. In the granting of any shoreline variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. In other words, if shoreline variances were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.</del></p>	<p><i>This change is recommended to correct a typo; this provision (G) is also at the end of this subsection and appears to have been mistakenly pasted at the beginning of the subsection as well.</i></p>	City staff concurs
O	Chapter 3.9 (A) Page 37	Unclassified Uses	<p>A. Other uses not specifically classified or set forth in this Chapter, <del>including the expansion or resumption of a nonconforming use,</del> may be authorized as shoreline conditional uses provided the applicant can <del>demonstrate all of the following:</del></p> <ol style="list-style-type: none"> <li><del>1. The proposal will satisfy the shoreline conditional use permit criteria set forth above.;</del></li> <li><del>2. The use clearly requires a specific site location on the shoreline not provided for under this Chapter; and</del></li> <li><del>3. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this Chapter.</del></li> </ol>	<p><i>These changes are recommended because this section is about unclassified uses, not nonconforming uses. Ecology recommends the nonconforming use-related provisions be moved to section 3.82; see recommended change PPP.</i></p>	City staff concurs
P	Chapter 3.12 Page 38	Shoreline Substantial Development,	<p><del>18.34.280 D. Pursuant to WAC 173-27-110, notice of the application and hearing shall be published in the manner prescribed therein, and mailed to the latest recorded real property owners as shown by the</del></p>	<p><i>This change is recommended to correct a typo; this provision (D) is included later in this subsection and appears to have mistakenly been pasted at the beginning of the subsection</i></p>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
		Conditional Use and Variance Permits	<del>records of the county assessor within at least three hundred feet of the boundary of the subject property, at least fifteen (15) days before the hearing. In addition, the planning department, in its discretion, may give notice in any other manner deemed appropriate.</del>	as well.	
Q	Chapter 3.12 (C) and (F) Page 38	Shoreline Substantial Development, Conditional Use and Variance Permits	<p>C. Applications for those shoreline <u>substantial</u> development permits or <u>shoreline exemptions</u> that are exempt from the State Environmental Policy Act and entirely upland of the Ordinary High Water Mark may be decided by the <del>Site Plan Review Committee</del> <u>Administrator</u> if a public hearing is not requested by an interested party. The Hearing Examiner shall hold a public hearing and render a decision regarding other applications identified in subsection A of this section.</p> <p>F. Pursuant to WAC 173-27-090 and 173-27-100, the <u>Administrator</u> <del>director or the director's designee</del> shall review and decide requests for time extensions and permit revisions. The decision of the <u>Administrator</u> <del>director</del> may be appealed pursuant to <u>OMC 18.34.290 City ordinance</u>. <u>If the revision to the original permit involves a conditional use permit or variance, the City shall submit the revision to the Department of Ecology for its final decision.</u></p>	<p><i>These changes are recommended for internal consistency and clarity. The definitions in section 3.3 (C) of the SMP name the party responsible for administration of the SMP as the "Administrator". The changes to (C) clarify which types of permit decisions the Administrator is authorized to make consistent with other City administrative codes. See also required change K.</i></p> <p><i>The changes to (F) clarify that section 3.14 (OMC 18.34.290) contains the process for appeals of administrative decisions under the SMP. Finally, WAC 173-27-100 (6) reiterates that Ecology is the final authority for decisions on shoreline CUPs and variances, which also applies to revisions affecting these types of shoreline permits.</i></p>	Olympia's current shoreline program provides that substantial shoreline development permits not requiring a hearing are decided by the Site Plan Review Committee (SPRC). A separate development code amendment now pending before Council would make SPRC advisory to the Community Planning and Development (CP&D) Director. A CP&D staff member has customarily been the City's Shoreline Administrator. Therefore staff supports Ecology's recommendations as being consistent with the spirit of the pending code amendment.
R	Chapter 3.13 (D) Page 39	Amendments	D. If the proposed amendment is a map change of environmental designation, regardless of the size or number of parcels affected, or regardless of whether the applicant is a private person or governmental agency, notice of the proposed amendment shall be mailed to all the owners of the property which is proposed for redesignation, as shown by the records of the county assessor. In addition, notice shall be mailed to all the owners of property which lies within three hundred feet of the boundary of the property proposed for designation. <del>Notices given pursuant to this subsection shall be mailed at least ten calendar days before the date of the hearing.</del> The applicant shall furnish to the planning department the names and addresses of property owners who are to receive notice.	<i>This change is recommended because the subject language is repetitive of and potentially in conflict with other City notice procedures. Provision A in this section outlines map changes are processed in the same manner as any other SMP amendment. Provision C in this section outlines the Council (or Planning Commission) will hold a hearing on any proposed amendment. The notice procedures/timelines applicable to the hearing notices would then presumably apply to this situation as well.</i>	City staff concurs
S	Chapter 3.14 (A) Page 39	Appeals of Administrative Decisions	A. Any aggrieved person may appeal an administrative decision made pursuant to the master program by filing a written appeal with the planning department within <del>ten</del> <u>fourteen calendar</u> days from the date of decision. The appeal shall be filed on forms prescribed by the department and the appellant shall pay to the department the appeal fee prescribed by the approved fee schedule.	<i>This change is recommended for administrative clarity/consistency with other City codes at the request of City staff (OMC 18.75.040).</i>	City staff concurs
T	Chapter 3.14 (B) Page 39	Appeals of Administrative Decisions	B. Appeals of administrative decisions shall be decided by the hearings examiner, after public hearing, and shall be subject to the provisions of <del>Chapter</del> <u>OMC</u> 18.75. Notice of the hearing shall be mailed to the appellant and may be mailed to any other person who the planning department believes may be affected by or interested in the appeal.	<i>This change is recommended for consistency with the reference style used in the rest of the document and to clarify what publication 'Chapter 18.75' refers to.</i>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
U	Chapter 3.16 (B) Page 39	Shoreline Jurisdiction	<p>Notice shall be mailed not later than ten days before the hearing.</p> <p>B. Olympia's "shorelands" include lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark, floodways and contiguous floodplain areas landward 200 feet from such floodways, and all wetlands and river deltas associated with the following bodies of water. <del>;-but no other</del> <u>The City has chosen not to regulate</u> 'optional' shorelands as described in RCW 90.58.030 <u>through this Shoreline Program</u>. Within its municipal boundaries, the City of Olympia shall have authority over the shorelines (water areas) and associated shorelands of Budd Inlet, Capitol Lake, Chambers Lake, Grass Lake, Ken Lake, Ward Lake, Black Lake Ditch and Percival Creek, including those waters of Budd Inlet seaward of extreme low tide which are shorelines of statewide significance.</p>	<p><i>This change is recommended for clarity.</i></p>	<p>City staff concurs</p>
V	Chapter 3.17 (B) Page 40	Official Shoreline Map	<p>B. The Shoreline Map (Figure 4.1) identifies shoreline environment designations and the approximate extent of shoreline jurisdiction within City boundaries. It does not identify or depict the lateral extent of shoreline jurisdiction or associated wetlands and floodplains. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis <u>by the project applicant or a qualified professional, as necessary</u>. The actual extent of shoreline jurisdiction requires a site-specific evaluation to identify the location of the Ordinary High Water Mark (OHWM) and associated wetlands and/or floodplains.</p>	<p><i>This change is recommended for administrative clarity at the request of City staff (the location of the OHWM is an element of a complete shoreline permit application per WAC 173-27-180).</i></p>	<p>When contested the extent of shoreline jurisdiction is determined by Ecology staff, not the applicant, therefore City staff recommends that this provision be clarified by instead deleting the third sentence (which Ecology proposes be edited) and instead that the last sentence be edited to read, "The actual extent of shoreline jurisdiction requires a site-specific evaluation to identify the location of the Ordinary High Water Mark (OHWM) and associated wetlands and/or floodplains <u>combined with lateral measurements</u>."</p>
W	Chapter 3.17 (C) Page 40	Official Shoreline Map	<p>C. Where uncertainty or conflict occurs in the exact location of a shoreline designation boundary, the Administrator shall interpret the boundaries based upon:</p> <p><del>1. The coordinates listed in Shoreline Environmental Designations for the City of Olympia;</del></p> <p><del>2. 1.</del> Boundaries indicated as approximately following lot, tract, or section lines;</p> <p><del>3. 2.</del> Boundaries indicated as approximately following roads or railways shall be construed to follow their centerlines; and</p> <p><del>4. 3.</del> Boundaries indicated as approximately parallel to or extensions of features indicated in <u>1 or 2</u> <del>or 3</del> above shall be so construed.</p>	<p><i>These changes are recommended because the coordinates referred to in (C)(1) are no longer accurate; the coordinates were included in the 'Final Proposed SMP Shoreline Environmental Designations for Lacey, Olympia and Tumwater' document prepared by Thurston Regional Planning Council (TRPC) (June 2009). Shoreline reaches and environment designations were revised during the City's subsequent work on the SMP and these coordinates were never updated. See also required change N.</i></p>	<p>City staff concurs that the coordinates referenced were not up to date. However, instead of relying on a map that lacks necessary specificity, the City staff recommends that this provision not be edited, and that instead the City submit a new set of coordinates consistent with the shoreline designation boundaries recommended by the City Council in 2013. (The related 'required change N' is the only required change staff recommends needs further review.)</p>
X	Figure 4.1 Page 41	Map	<p><del>Draft</del>  <u>City of Olympia</u> Shoreline <u>Map Master Program</u>  <del>Proposed</del> Shoreline Environment Designations  <del>February 2013</del> <u>Insert final date</u></p>	<p><i>Striking "draft" is recommended for clarity. The change to the title is recommended so it matches that in section 3.17 (A). Striking "proposed" is recommended because upon adoption the environment designations will be final. The last</i></p>	<p>City staff concurs</p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
				<i>change would result in the map date being consistent with the final date of the SMP.</i>	
Y	Chapter 3.21 (F)(3) Page 43	No-Net-Loss and Mitigation	F. When mitigation measures are required, all of the following shall apply:  3. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory ( <a href="#">TRPC, June 2009</a> ), <del>and</del> <a href="#">Shoreline Analysis and Characterization Report (ESA Adolfson, December 2008)</a> , Olympia's Shoreline Restoration Plan ( <a href="#">Appendix A to the Master Program</a> ) and that of other jurisdictions, and other background studies prepared in support of this Program;	<i>These changes are recommended for administrative clarity at the request of City staff.</i>	City staff concurs
Z	Chapter 3.22 (C) Page 46	Critical Areas	<a href="#">13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.</a>	<i>This addition is recommended because Ecology published updates to the Washington State Wetland Rating Systems in June 2014. The most substantive change affecting local governments is the change to the scale of wetland scores. Ecology required that the updated rating system be used as of January 1, 2015. The City issued a Director's Determination on December 31, 2014 recognizing use of this interim language in the CAO. This change would directly recognize the interim language by adding it to the SMP.</i>	City staff concurs
AA	Chapter 3.25 (C) Page 47	Public Access	C. The public access requirement, when related to development not publicly funded, may be waived by the <del>decision-maker</del> <a href="#">Administrator</a> where one or more of the following conditions are present:	<i>This change is recommended for clarity and internal consistency.</i>	City staff concurs
BB	Chapter 3.25 (J) Page 48	Public Access	J. Public access areas shall be approved by the <del>decision-maker</del> <a href="#">Administrator</a> during review of the shoreline permit. If exempt from a shoreline permit, public access areas may be required by the Administrator.	<i>This change is recommended for clarity and internal consistency.</i>	City staff concurs
CC	Chapter 3.30 (B) Page 50	General Vegetation Conservation Regulations	B. Parcels fronting on lakes, marine waters, streams or wetlands shall preserve or provide native vegetation within vegetation conservation areas, also known as VCAs or buffers, upland of and adjacent to the Ordinary High Water Mark <del>developments</del> as required in Table 6.3. <a href="#">If present on a parcel, note that critical area buffers may be larger than or may encompass VCAs.</a>	<i>The first change is recommended to correct what appears to be a typo. The second change is recommended for clarity and specificity.</i>	City staff concurs
DD	Chapter 3.30 (D) Page 50	General Vegetation Conservation Regulations	D. Mitigation in the form of restoration or creation of vegetation conservation areas may be required as a condition of development approval consistent with mitigation sequencing priorities in OMC 18.34.410(B). Further, an applicant may propose such restoration for reductions in required setbacks or for encroachments into required vegetation conservation areas <a href="#">as provided in OMC 18.34.493 and/or</a> for water dependent uses as provided in Table 6.3.	<i>The first change is recommended to correct a typo; the second change (addition) is recommended for clarity and specificity.</i>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
EE	Chapter 3.31 (A) Page 50	Permitted Uses and Activities within Vegetation Conservation Areas	A. Subject to other limitations of this Chapter and if also allowed within the applicable shoreline environment designation, the following uses and activities are permitted within vegetation conservation areas without a variance, <u>subject to compliance with the mitigation sequence in OMC 18.34.410(B)</u> :	<i>This change is recommended to clarify that authorized uses and activities within vegetation conservation areas (VCAs) are subject to and must comply with the mitigation sequence in section 3.21 (B) of the SMP, specifically the avoidance and minimization steps. This fact is implied in other sections/provisions of the SMP, however stating it here provides specificity and clarity and addresses concerns expressed during the state public comment period.</i>	City staff concurs
FF	Chapter 3.31 (A)(8) Page 51	Permitted Uses and Activities within Vegetation Conservation Areas	8. Improvements that are part of an approved enhancement, restoration, <u>vegetation management</u> or mitigation plan; and	<i>Vegetation Management plans as described in section 3.34 of the SMP are intended to address clearing, grading and compensatory mitigation in shoreline jurisdiction. This recommended change would clearly state that improvements authorized through approval of a vegetation management plan would be allowed within vegetation conservation areas.</i>	City staff concurs
GG	Chapter 3.33 (C) Page 51	Vegetation Conservation Area Standards	C. In general, protected and restored vegetation conservation areas shall be composed of native vegetation comparable in species density and diversity to an ecologically similar undisturbed area. Such species density and diversity shall be determined by the Administrator based on best available science. Provided, however, that up to 33% (one-third) of the vegetation conservation area may be utilized for authorized uses and activities described in OMC 18.34.493 provided that impervious surfaces shall not exceed 25% of the VCA. In no case shall the width of a required VCA be less than 10 feet. Encroachment of an authorized use or activity shall require an equivalent area elsewhere onsite be set aside as a VCA and shall <del>ensure that the proposed use or activity will</del> not result in a net loss to shoreline ecological functions.	<i>This change is recommended at the request of City staff to correct a grammatical issue and for administrative clarity.</i>	City staff concurs Unedited this clause suggests that the purpose of the encroachment may be avoid a net loss of ecological function. In fact, the intent is that the encroachment not cause a net loss of function.
HH	Chapter 3.33 (D) and (E) Page 52	Vegetation Conservation Area Standards	D. When restoring or enhancing shoreline vegetation, applicants shall <del>use</del> native species that are of a similar diversity, density and type commonly found in riparian areas of Thurston County. The vegetation shall be nurtured and maintained to ensure establishment of a healthy and sustainable native plant community over time.	<i>This change is recommended to correct a typo.</i>	City staff concurs
II	Chapter 3.34 (A)(7)(f) Page 53	Vegetation Management Plan	f. For a period of <del>5</del> <u>10</u> years after initial planting, the applicant shall replace any unhealthy or dead vegetation as part of an approved vegetation management plan.	<i>This change is recommended so there are no conflicts between this section and section 3.21 (F)(6). The latter section requires that when mitigation measures are required to offset unavoidable impacts of proposed development, mitigation activities be monitored and maintained for a ten (10) year period. A later provision in this section (provision E) outlines that these two sections are intended to be</i>	Staff concurs – but note that 10-year monitoring is a longer period than previously was common practice.

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
				<i>consistent.</i>	
JJ	Chapter 3.36 (A) Page 54	View Protection Regulations	A. No permit shall be issued pursuant to <a href="#">this</a> chapter for any new or expanded building or structure of more than 35 feet above average grade level that will obstruct the view of a substantial number of residences in areas adjoining such shorelines except where Olympia's Shoreline Program does not prohibit the same and then only when overriding considerations of the public interest will be served.	<i>This change is recommended to correct a typo.</i>	City staff concurs
KK	Chapter 3.36 (J) Page 54	View Protection Regulations	J. Where on-going maintenance of vegetation <a href="#">on public property</a> to protect public views is necessary, a vegetation management plan shall be approved by the Administrator prior to any work. At a minimum, the vegetation management plan shall identify the viewshed to be preserved, the areas where vegetation will be maintained (including tree removal), and percent of vegetation to be retained. If trees are removed, they shall be replaced with three trees for each tree removed up to a minimum density of 220 trees per acre.	<i>This change is recommended so that this provision is clearly consistent with OMC 18.34.493 (A)(7).</i>	Staff concurs that this edit is consistent with the cited policy. Do note this edit results in a significantly different meaning. As an alternative Council could propose that the policy be edited to be consistent with the regulation as proposed.
LL	Chapter 3.39 Page 55	Shoreline Use and Development - Intent	The purpose of this section is to set forth regulations for specific common uses and types of development that occur within Olympia's shoreline jurisdiction. Where a use is not listed on Table 6.1, the provisions of OMC 18.34.250, Unclassified Uses, shall apply. All uses and activities shall be consistent with the provisions of the shoreline environment designation in which they are located <a href="#">and the general regulations in OMC 18.34.400 through 18.34.510.</a>	<i>This change is recommended for clarity and internal consistency.</i>	City staff concurs
MM	Chapter 3.40 (B) Page 55	General Use and Development Provisions	B. All uses not explicitly permitted in this Chapter shall require a shoreline conditional use permit. The <del>Administrator and/or</del> Hearing Examiner may impose conditions to ensure that the proposed development meets the policies of Olympia's Shoreline Program.	<i>This change is recommended for consistency - all conditional use permits are issued by the Hearings Examiner in accordance with section 3.12 of the SMP and OMC 18.72.080.</i>	Staff concurs. Although when a hearing is waived the Administrator may approve a substantial shoreline development permit, only the Examiner can issue a conditional shoreline use permit.
NN	Chapter 3.40 (C) through (E) Page 55	General Use and Development Provisions	C. All development and uses must conform to all <del>of the</del> <a href="#">applicable</a> provisions of this Shoreline Program, <a href="#">including:</a> <del>D. All development and uses shall conform to</del> the shoreline use table and the development standards table in OMC 18.34.600 through 18.34.710, unless otherwise stated <a href="#">or upon approval of a shoreline variance.</a> <a href="#">Renumber following provision.</a>	<i>This change is recommended to consolidate and clarify two provisions that essentially say the same thing.</i>	City staff concurs
OO	Chapter 3.41 (D)(2) Page 56	Use and Development Standards Tables	2. <del>Physical Preferred public</del> access shall be <a href="#">physical</a> access to the marine shoreline from the public right- of- way via a sidewalk or paved trail on a publicly dedicated easement no less than 6 feet in width and constructed to City standards as included in the City's Engineering Design and Development Standards. Other forms of indirect access such as viewing towers and platforms may be considered where direct access to the shoreline is deemed dangerous due to the nature of the	<i>The first change is recommended because this incentive really doesn't require <a href="#">physical</a> public access. That is the preference, but indirect/visual access can also be considered under specific circumstances.</i>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS												
			use of the property or the conditions at the shoreline. Existing access meeting the standards described herein may be used to meet setback incentive provisions.														
PP	Chapter 3.41 (D)(5) Page 57	Use and Development Standards Tables	<p><del>4.5.</del> Vegetation restoration shall be planting of native shoreline vegetation in excess of that required to achieve no net loss of environmental function <u>from unavoidable impacts associated with a development proposal</u>. Plantings <del>and</del> shall substantially mimic undisturbed native shorelines in the South Puget Sound in plant species, species mixture and plant density. Vegetation restoration shall be accomplished through an approved Vegetation Management Plan. <del>Uses may encroach the required setback area as described above so long as they provide for r</del> Restoration <u>ratios</u> <del>of the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a</del> shall begin at 2 square feet of restoration for every 1 square foot <u>reduction</u> of <del>encroachment within</del> the required setback area and demonstrate no net loss of environmental function. <del>Such areas shall be no less than 25 feet in depth measured from the Ordinary High Water Mark and shall be no less than one acre in area.</del></p>	<p><i>These changes are recommended for clarity. Basing vegetative replacement ratios on encroachment impacts in VCAs is standard as it relates to mitigation, because the purpose of VCAs is to conserve vegetation. Setbacks serve a different purpose and if the subject is voluntary restoration, the method to determine the area to be restored can be stated in a much clearer manner.</i></p> <p><i>With regard to the last sentence, It was not clear what "areas" were being referred to, what was expected if less vegetation than that necessary to cover a 25 foot deep area was proposed, and whether the "one acre" in area requirement can even be met on each parcel in shoreline jurisdiction within this reach.</i></p>	Staff concurs with recommendations of this section except deletion of the last sentence. It is staff's understanding that this sentence was intended to require a substantial minimum area of vegetation restoration as a condition of receiving the setback reduction. Therefore, for clarity, the staff recommends this sentence be retained but instead read, "Further, a qualifying vegetation restoration area must be of at least one acre and no less than 25 feet in depth as measured from the Ordinary High Water Mark."												
QQ	Chapter 3.41 Table 6.2 Page 60	Development Standards (Heights)	<table border="1"> <thead> <tr> <th>Shoreline Environment</th> <th>Shoreline Segment Reach</th> <th>Maximum Standard Building Height</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Urban Intensity</td> <td>BUDD-3A*, Budd 6A &amp; Cap-3B</td> <td>42 feet to 65 feet Budd 3A*, 65 feet</td> </tr> <tr> <td><del>All others</del> Budd-4 and Budd-5A</td> <td>35 feet water-ward of streets; 90 feet remainder</td> </tr> </tbody> </table>	Shoreline Environment	Shoreline Segment Reach	Maximum Standard Building Height	Urban Intensity	BUDD-3A*, Budd 6A & Cap-3B	42 feet to 65 feet Budd 3A*, 65 feet	<del>All others</del> Budd-4 and Budd-5A	35 feet water-ward of streets; 90 feet remainder	<p><i>The change to the title of the central column in this table is recommended for consistency with the rest of the SMP. The term "shoreline segment" is not used anywhere else in the SMP, while "reaches" are commonly referred to.</i></p> <p><i>The change to the second cell to reference Budd-4 and Budd-5A specifically is recommended for clarity.</i></p>	City staff concurs				
Shoreline Environment	Shoreline Segment Reach	Maximum Standard Building Height															
Urban Intensity	BUDD-3A*, Budd 6A & Cap-3B	42 feet to 65 feet Budd 3A*, 65 feet															
	<del>All others</del> Budd-4 and Budd-5A	35 feet water-ward of streets; 90 feet remainder															
RR	Chapter 3.41 Table 6.3 Pages 61-62	Setbacks and Incentives	<table border="1"> <thead> <tr> <th>Shoreline Environment</th> <th>Shoreline Setback/<del>VCA</del></th> <th>VCA</th> <th>Setback with maximum reduction-Non-water dependent</th> <th>Incentive eligible provisions-See 18.34.620.D.1</th> <th>Shoreline Setback Reduction</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p><u>Separate the remainder of this column into two columns and shift the VCA dimensions into the new second column.</u></p>	Shoreline Environment	Shoreline Setback/ <del>VCA</del>	VCA	Setback with maximum reduction-Non-water dependent	Incentive eligible provisions-See 18.34.620.D.1	Shoreline Setback Reduction							<p><i>Adding a column to the table is recommended for administrative clarity at the request of City staff; in addition to clarification of definitions in OMC 18.34.120, separate columns for setbacks and VCAs will help clarify that the VCA is part of the larger setback and not in addition to the setback. The addition of "shoreline" to the setback columns ensures consistency with the definitions in OMC 18.34.120. The correction to the incentive eligible provisions column fixes a typo.</i></p> <p><i>See also recommended change SS.</i></p>	City staff concurs
Shoreline Environment	Shoreline Setback/ <del>VCA</del>	VCA	Setback with maximum reduction-Non-water dependent	Incentive eligible provisions-See 18.34.620.D.1	Shoreline Setback Reduction												
SS	Chapter 3.41 Table 6.3 Page 62	Setbacks and Incentives	<table border="1"> <thead> <tr> <th>Shoreline Environment</th> <th>Shoreline Setback</th> <th>VCA</th> <th>Setback with maximum reduction-</th> <th>Incentive eligible provisions-See 18.34.620.D.1</th> <th>Shoreline Setback Reduction</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Shoreline Environment	Shoreline Setback	VCA	Setback with maximum reduction-	Incentive eligible provisions-See 18.34.620.D.1	Shoreline Setback Reduction							<p><i>See recommended change RR above regarding suggested changes to table layout.</i></p>	City staff concurs
Shoreline Environment	Shoreline Setback	VCA	Setback with maximum reduction-	Incentive eligible provisions-See 18.34.620.D.1	Shoreline Setback Reduction												

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]						ECOLOGY - DISCUSSION/RATIONALE		OLYMPIA STAFF COMMENTS
						Non-water dependent					
			Waterfront Recreation Cap-6	30'	30'	30'	N/A	N/A	The change in row Cap-6 is recommended to address a gap in the table, confirming that the shoreline setback reduction does not apply to reach Cap-6.		
			Port Marine Industrial Budd-5B	0'	0'	0'	Offsite Mitigation N/A	<del>100%</del> N/A	See 18.34.620. The changes in row Budd-5B are recommended because the information in these cells is unnecessary and could be misleading. Again focusing on the deliberate distinction between mitigation and restoration, incentives do not apply to mitigation required to compensate for unavoidable impacts. Furthermore, the shoreline setbacks and VCA are already 0' so there is nothing to reduce.		
TT	Chapter 3.43 Page 63	Aquaculture	<p>B. Commercial aquaculture shall conform to all applicable State and Federal regulations. The City may accept application documentation required by other permitting agencies for new and expanded aquaculture uses and development to minimize redundancy in permit application requirements. <u>Additional studies or information may be required by the City, which may include but is not limited to monitoring and adaptive management plans and information on the presence of and potential impacts to, including ecological and visual impacts, existing shoreline or water conditions and/or uses, vegetation, and overwater structures.</u></p> <p><del>B</del> C. <u>Aquaculture activities and facilities shall be located where they do not adversely impact native eelgrass and microalgae species or other critical saltwater habitats, priority species or species of concern, or habitat for such species as defined in OMC 18.34.120. Aquaculture uses and activities shall observe all upland and aquatic buffers or setbacks required by applicable State or Federal regulations. Larger buffers or other protections may be required if supported by relevant resource agencies in coordination with the Administrator. Aquaculture shall not be permitted in areas where it would result in a net loss of shoreline ecological functions, or where adverse impacts to critical saltwater habitats cannot be mitigated according to <del>impacts to ecological functions shall be mitigated according to the mitigation sequence of</del> OMC 18.34.410(B).</u></p> <p><del>C</del> D. Aquaculture for the recovery of native populations is permitted when part of an approved restoration or habitat management plan complying with this Chapter.</p>						<p>These changes are recommended to provide specificity and transparency for all parties if a commercial aquaculture activity should be proposed within Olympia's shoreline jurisdiction. The text in provision B to the left incorporates required change CC.</p>		<p>Staff concurs. Note that although health regulations currently prohibit commercial aquaculture within Olympia's shoreline jurisdiction, the Shoreline Master Program must include regulations for this prospective use.</p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
UU	Chapter 3.47 and 3.48 Page 65	Boat storage and Covered Moorage	<p><b>3.47 Boat Storage</b>                      C. Dry moorage and other storage areas shall be located away from the shoreline and be landscaped with native vegetation to provide a visual buffer for adjoining dissimilar uses or scenic areas.  <u>D. Boat Houses/Boat Storage Buildings above and landward of the Ordinary High Water Mark are permitted, and must comply with all the following:</u></p> <ol style="list-style-type: none"> <li><u>1. A view corridor of not less than 35 percent of the width of the property shall be maintained between the abutting street and waterway;</u></li> <li><u>2. The structure does not exceed the maximum height set forth on Table 6.2; and</u></li> <li><u>3. The structure shall be visually compatible with the surrounding environment.</u></li> </ol> <p><b>3.48 Covered Moorage</b>                      A. New overwater covered moorage and the expansion of existing covered moorage is prohibited.  <del>B. Boat Houses/Boat Storage Buildings above and landward of the Ordinary High Water Mark are permitted, and must comply with all the following:</del></p> <ol style="list-style-type: none"> <li><del>1. A view corridor of not less than 35 percent of the width of the property shall be maintained between the abutting street and waterway;</del></li> <li><del>2. The structure does not exceed the maximum height set forth on Table 6.2; and</del></li> <li><del>3. The structure shall be visually compatible with the surrounding environment.</del></li> </ol>	<p><i>This change (moving provision B from section 3.48 to section 3.47 and making it provision D) is recommended because the subject provision speaks to upland boat storage, not covered moorage. Covered occurs waterward of the ordinary high water mark per the definition in section 3.3 (C).</i></p>	<p>City staff concurs</p>
VV	Chapter 3.51 Page 66	Non-Water-Oriented Commercial Use and Development	<p>Non-water-oriented uses may be allowed only if they are part of a mixed use development that include water-oriented uses, provide public access, and shoreline enhancement/ restoration. The applicant shall demonstrate that the project will result in no net loss to shoreline ecological functions or processes. <u>In areas zoned for commercial use, non water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or right of way.</u></p>	<p><i>This change is recommended so provisions in the SMP align with commercial provisions/allowances in the Guidelines at WAC 173-26-241 (3)(d).</i></p>	<p>Staff concurs that this edit is consistent with the guidelines. In addition, City staff recommends that for clarity the word “upland” be inserted before “property” in the new sentence. Note that this is a substantive change from the Council-proposed Shoreline Program and the City may elect to reject this recommendation. (Reminder, water-oriented uses include water enjoyment uses such as restaurants.)</p>
WW	Chapter 3.52 (K) Page 67	Industrial Development	<p><del>G. Any shoreline permit application for industrial uses shall include the following information:</del></p> <ol style="list-style-type: none"> <li><del>1. Evidence of water orientation;</del></li> </ol>	<p><i>This change is recommended at the request of City staff, to avoid redundancies or potential conflicts with the City's established application content lists.</i></p>	<p>Staff concurs. Application content lists of the City are generally adopted by Council resolution and not in a codified ordinance.</p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
			<p><del>2. Cooperative use of service facilities by multiple users, where feasible;</del>  <del>3. Information on transportation and utility service corridors, traffic circulation, access to the facility, and the impacts of the proposed project on transportation, circulation and navigation in the area;</del>  <del>4. The design and location of public access if feasible;</del>  <del>5. Methods for treatment, control, and disposal of waste including any proposed storm or sanitary sewer outfalls;</del>  <del>6. The location and method of storing chemicals or other hazardous materials;</del>  <del>7. Analysis of the impact of the proposed project upon groundwater, hydrology, drainage patterns and soil erosion;</del>  <del>8. Analysis of air quality, noise levels, and light pollution impacts;</del>  <del>9. Analysis of impacts to shoreline ecological functions and processes; and</del>  <del>10. Mitigation plan to address any unavoidable adverse impacts to the shoreline environment.</del></p>		
XX	Chapter 3.53 (B) Page 68	Recreation	B. Park and recreation facilities may be used for events and temporary uses <del>that</del> <u>when</u> the proposed use will not damage the shoreline. Structures associated with such uses shall be located as far landward as feasible and shall be removed immediately after the event is over. Shoreline areas shall be returned to pre-event conditions.	<i>This change is recommended to correct a typo.</i>	City staff concurs
YY	Chapter 3.54 (A) Page 68	Residential Use and Development	A. New residential development, including additions to existing structures, shall meet the development standards set forth on Tables <u>6.2 and 6.3</u> particularly and this title in general.	<i>This change is recommended because there are also development standards (setbacks) in Table 6.3.</i>	City staff concurs
ZZ	Chapter 3.55 (A)(7) Page 69	Transportation and Trail Facilities	7. The location and design of <u>new roadway expansions</u> shall not compromise existing and planned shoreline public access <del>and existing</del> , or compromise existing and planned habitat restoration or enhancement projects; and	<i>This change is recommended because this provision (A) is focused on expansion of existing facilities, not new facilities. The recommended changes also address a typo.</i>	Staff does <u>not</u> concur. Consistent with the policies of section 2.28 this section entire section (A) was intended to address new and expanded trails, roads and railroads. Accordingly, the opening clause should instead be amended as follows, "A. The following provisions apply to <u>new, and expansion of, trails, roads and railroads expansions</u> :"
AAA	Chapter 3.58 Page 72	Permitted Shoreline Modifications	Shoreline modifications may be allowed by shoreline environment designation as listed in Table 7.1. Aquatic environment provisions are based on the adjacent environment designation, including permitted with a shoreline substantial development permit <u>or exemption</u> (P), shoreline conditional use permit (C), or prohibited outright (X). This table shall be used in conjunction with the written provisions for each use. Column notes provide additional clarification and identify other applicable City regulations.	<i>This change is recommended because some of the items in this table labeled with a P could meet the criteria for an exemption in OMC 18.34.220.</i>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
BBB	Chapter 3.58 Table 7.1 Page 73	Shoreline Modifications Table	See Exhibit C-1 (attached).	<p><i>Changes to this table are recommended so that the numbers/code references in the “applicable regulation” column align with the cited code sections.</i></p> <p><i>Two changes are recommended to the type of authorization necessary for specific modifications. Conditional Uses require approval by the City’s hearings examiner as well as the Department of Ecology. In the case of upland fill, additional time and monies spent to obtain a CUP for what is essentially a grading permit subject to the standards in the SMP in OMC 18.34.833 does not appear to add value to the process. The same can be said for restoration and enhancement in the Natural designation. In consideration of the designation criteria, little or no restoration should be necessary within shoreline jurisdiction because the Naturally-designated reach is relatively ecologically intact.</i></p> <p><i>The final recommended change would remove instream structures from the “ecological restoration and enhancement row” and place them in a separate row. As Ecology has outlined to the City in past comments, instream structures are not limited to or proposed only in the context of restoration and/or enhancement.</i></p>	Staff concurs. The City’s current Shoreline Master Program rarely requires conditional (Ecology) approval of shoreline development permits – usually only if the development is over or in water. During early stages of updating the City’s Program Ecology staff suggested that many uses should become conditional, i.e., require Ecology approval. Later communications suggested this would not be necessary and this recommendation is consistent with those recommendations.
CCC	Chapter 3.61 (I) Page 75	Shoreland Fill	I. Perimeters of fill shall be designed to eliminate the potential for erosion, <u>and be natural in appearance</u> , <del>and avoid the use of structural stabilization unless demonstrated to be infeasible</del> . Perimeter slopes shall not exceed 1 foot vertical for every 3 feet horizontal unless an engineering analysis has been provided, and the Administrator determines that the landfill blends with existing topography.	<i>This change is recommended because provision K in this same subsection states that fill shall not be located where shoreline stabilization will be necessary to protect materials placed or removed.</i>	City staff concurs
DDD	Chapter 3.66 (B)(various) Page 78	Marine Docks and Piers	<p>B. The location, design and construction of new or repaired private or recreational piers or docks in marine waters shall comply with all applicable State and Federal regulations and the following standards:</p> <p>1. Docks and piers shall be setback from the side property line twenty (20) feet on marine waters, <u>unless designated for shared use between adjacent property owners</u>;</p> <p><del>2. Only piers or ramps shall be located within the first 30 feet waterward of the Ordinary High-Water Mark;</del></p> <p><del>3. Residential</del> <u>P</u> piers shall not exceed 4 feet in width and must incorporate a minimum of 60 percent grating <u>or the percentage required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife</u>;</p> <p><del>4. Pilings shall be spaced a minimum of 20 feet apart (lengthwise parallel to the structure) unless the structure is less than 20 feet long</del></p>	<p><i>Generally the changes to this section are recommended because when originally inserted in the SMP, the language aligned with proposed language in the Hydraulic Project Application (HPA) rule revisions. However in the final adopted version of the HPA rule, these provisions have been amended. Leaving these requirements in the SMP as written could put project applicants in the position of having to apply for a shoreline variance when there are conflicts between the HPA rules and bulk or dimensional standards in the SMP.</i></p> <p><i>The first change is recommended to provide more flexibility for shared use moorage complying with the regulations in OMC 18.34.844.</i></p>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
			<p><del>for which pilings shall be placed only at the ends of the structure;</del>  <u>6 8.</u> New or modified residential piers and docks as well as watercraft operation and moorage shall be located to avoid physical impacts to aquatic habitat. At a minimum pier and dock proposals shall ensure that <u>structures are designed and located to protect critical saltwater habitat, and salt water habitats of special concern as defined by the Department of Fish and Wildlife in WAC 220-660-320</u> ;</p> <p><del>a. No overwater structures or pilings are constructed or installed within 50 feet, as measured horizontally in all directions, from macro algae beds or eelgrass.</del>  <del>b. No docks or dock supports are constructed or installed within a 4 foot depth elevation between the top of the dock stopper and the elevation of the landward most edge of the macro algae bed or eelgrass. This restriction shall apply to a zone 50 feet as measured on both sides of the dock.</del></p> <p><u>7 9.</u> Construction materials shall not include wood treated with creosote, pentachlorophenol or other similarly toxic materials.</p>		
EEE	Chapter 3.67 (B)(various) Page 79	Fresh Water Docks and Piers	<p>B. The location, design, and construction of new or repaired private or recreational piers or docks in fresh waters shall comply with <u>all applicable State and Federal regulations and</u> the following standards:</p> <p>1. Only piers or ramps can be located within the first thirty (30) feet water-ward of the Ordinary High Water Mark;  <del>2. Fingers, platforms and ells cannot be any closer than thirty (30) feet water ward of the Ordinary High Water Mark. The first set of pilings shall be located no closer than eighteen (18) feet from the Ordinary High Water Mark;</del>  <u>3 4.</u> Docks and piers shall not exceed four feet in width, except an additional two (2) feet of width can be allowed without a variance for a property owner with a condition that qualifies for state disable accommodated. Sixty (60) percent of the dock/pier surface area must be grated <u>or the percentage required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife;</u></p> <p><del>6 7. Docks with floats or ells shall be limited to one of the following size options and oriented and grated at the percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife:</del></p> <p><del>a. Up to 6 feet wide by 20 feet long with a two foot strip of grating down the center;</del>  <del>b. Up to 6 feet wide by 26 feet long with grating, providing that there is a 60% open area over the entire ell or float; or</del>  <del>c. A single ell, two feet wide by 20 feet long, with 100% grating.</del></p>	<p><i>Generally the changes to this section are recommended because when originally inserted in the SMP, the language aligned with proposed language in the Hydraulic Project Application (HPA) rule revisions. However in the final adopted version of the HPA rule, these provisions have been amended. Leaving these requirements in the SMP as written could put project applicants in the position of having to apply for a shoreline variance when there are conflicts between the HPA rules and bulk or dimensional standards in the SMP.</i></p>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
FFF	Chapter 3.68 (B)(3) and (D) Page 80	Float Standards	<p>B. The standards for private recreational floats are as follows:</p> <p>3. Floats shall not rest on the substrate at any time. <del>F</del> <u>In marine waters,</u> floats shall be located (anchored) at sufficient depth to maintain a minimum of one foot of draft between the float and the beach substrate at low tide.</p> <p>D. Public and private recreational floats <del>width</del> shall comply with the following standards:</p> <p>1. <del>Floats with a width of six feet or less shall incorporate a minimum of 30% functional grating into the dock surface area;</del></p> <p>2. Floats shall be <u>oriented and</u> <del>with a width greater than six feet or more shall</del> incorporate <del>a minimum of 50%</del> functional grating into the <del>deck float</del> surface area <u>at a percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife;</u> <del>and</del></p> <p><del>2.3. R</del> <u>For</u> recreational floats <del>shall be</del> anchored utilizing <del>either helical screw or "duckbill"</del> <u>an embedded</u> anchor; anchor lines shall not rest on or disturb the substrate <u>at any time.</u></p>	<p><i>The changes to this section are recommended because when originally inserted in the SMP, the language aligned with proposed language in the Hydraulic Project Application (HPA) rule revisions. However in the final adopted version of the HPA rule, these provisions have been amended. Leaving these requirements in the SMP as written could put project applicants in the position of having to apply for a shoreline variance when there are conflicts between the HPA rules and the SMP.</i></p>	City staff concurs
GGG	Chapter 3.70 (J) & (K)(new) Page 82	Shoreline Restoration and Enhancement	<p><u>J. In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this Master Program.</u></p> <p><u>K. Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.</u></p>	<p><i>These changes are recommended to detail the process for seeking relief from SMP development standards and use regulations when a shoreline restoration project causes or would cause a landward shift in the OHWM, and the circumstances under which a substantial development permit is not required (RCW 90.58.580).</i></p>	
HHH	Chapter 3.71 (A) Page 82	Instream Structures	<p>A. Instream structures are permitted only when necessary for a restoration or enhancement project, to improve fish passage, or for permitted <del>road</del> <u>transportation</u> or utility crossings and subject to the following requirements:</p>	<p><i>This change is recommended to recognize trails in addition to roads (as transportation facilities).</i></p>	City staff concurs
III	Chapter 3.73 (A) Page 83	Shoreline Stabilization - New Development	<p>A. New shoreline use and development including new lots shall be located and designed to eliminate the need for concurrent or future shoreline stabilization <u>to the extent feasible. Lots created through subdivision processes shall not require shorelines stabilization for reasonable development to occur, as demonstrated through</u> <del>If this is not feasible based upon</del> a geotechnical analysis <u>of the site and shoreline characteristics,</u> <del>soft structural protection measures shall be given preference over hard structural protection measures. The use of hard structural stabilization measures will only be allowed when it is</del></p>	<p><i>The SMP Guidelines at WAC 173-26-231 (3)(a)(iii)(A) require a geotechnical analysis for new subdivisions and for new development on steep slopes or bluffs. As written, provision A can be interpreted as requiring a geotechnical analysis for every new shoreline use and development, including uses or development that are in shoreline jurisdiction but may not actually be located on the water. The recommended change reflects the language from the Guidelines.</i></p>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
			<p><del>demonstrated that soft structural measures are not feasible and that they will not</del> <u>New development that would require shoreline stabilization which</u> results in significant impacts to adjacent or down current properties <u>will not be allowed.</u></p> <p><del>B. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.34.410(B) to minimize adverse impacts to shoreline ecological functions and processes. Protection of adjacent property and existing development shall also be considered in the design and location of structural stabilization measures.</del></p>	<p><i>It is recommended that provision B be moved to section 3.76, where all of the other provisions relating to the design of shoreline stabilization measures are located.</i></p>	
JJJ	Chapter 3.74 (G) Page 84	New or Expanded Shoreline Stabilization Measures	<p>G. In order to determine appropriate mitigation measures, the Administrator may require environmental information and analysis, including documentation of existing conditions, ecological functions and anticipated impacts, along with a <del>restoration</del> <u>mitigation</u> plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.</p>	<p><i>This change is recommended for consistency with the definitions and purposes of the different types of plans outlined in section 3.3 (C). Mitigation plans are related to a specific activity or development and is a more appropriate reference given the language in the rest of this provision.</i></p>	City staff concurs
KKK	Chapter 3.76 (G) Page 85	Design of Shoreline Stabilization Measures	<p><del>G. The use of revetments shall be prohibited for shoreline stabilization structures.</del></p>	<p><i>This change is recommended because as defined in the SMP, half of the Budd Inlet shorelines could be considered as having rip rap revetments. Additionally, one of the concepts put forth in the "City of Olympia Engineers Response to Sea Level Rise" technical report is an armored slope earthen berm, which is essentially a rip rap revetment.</i></p>	Staff concurs. Although not favored, revetments maybe preferably to vertical bulkheads and should not be expressly prohibited.
LLL	Chapter 3.76 Page 86	Design of Shoreline Stabilization Measures	<p><u>I. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.34.410(B) to minimize adverse impacts to shoreline ecological functions and processes. Protection of adjacent property and existing development shall also be considered in the design and location of structural stabilization measures.</u></p>	<p><i>It is recommended that this provision be moved to from section 3.73 to section 3.76, where all of the other provisions relating to the design of shoreline stabilization measures are located.</i></p>	City staff concurs
MMM	Chapter 3.76 (I)(2)(c) Page 86	Design of Shoreline Stabilization Measures	<p><u>H. Bioengineering is a preferred method of protecting upland property and structures or to maintain access to an authorized shoreline use. Bioengineering combines structural, biological and ecological concepts to construct living structures that stabilize the soil to control erosion using live plant materials as a main, but not only, structural component.</u></p> <p>2. Bioengineering projects shall incorporate all of the following:</p> <p>c. <del>A</del> <u>If no VCA is established in OMC 18.34.620 Table 6.3,</u> a minimum five (5) foot vegetated buffer shall be provided landward of the project limits to allow bank protection plantings to become established. The buffers shall not be disturbed for a minimum of</p>	<p><i>This change is recommended for clarity and would use an already established concept to avoid future ambiguity.</i></p>	City staff concurs

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
NNN	Chapters 3.78 and 3.79 Pages 86 & 87	Breakwaters, Jetties, Groins, and Weirs	three years. <b>18.34.872 00 - Breakwaters, Jetties, Groins, and Weirs – General Provisions</b> <b>18.34.874 05 – Breakwaters, Jetties, Groins, and Weirs - Environment Designations</b>	<i>These changes are recommended for a consistent numbering scheme - OMC 18.34.800 already exists, and .805 would be out of sequence.</i>	City staff concurs
OOO	Chapter 3.81 (A) Page 88	Alteration of Structures in the Shoreline	<b>18.34.910 – Alteration of <u>Nonconforming Structures in the Shoreline Jurisdiction</u></b> A. Shoreline Structures – The following regulations apply to <u>nonconforming</u> structures located in <del>the</del> shoreline <u>jurisdiction</u> : 1. Alteration of structures located landward of the Ordinary High Water Mark within a required shoreline setback is limited to: a. For structures located partially within the shoreline setback, alterations shall be limited to the addition of height and <u>expansion into the areas</u> outside the shoreline setback. b. For structures located entirely within the shoreline setbacks, alterations shall be allowed for the addition of height or <u>expansion</u> on the upland side of the structure, or both. c. Interior and exterior remodels and the addition of upper stories are permitted. Except as provided above, such additions shall not extend beyond the existing or approved building footprint. <u>Expansion of nonconforming structures that further encroach on the Ordinary High Water Mark setback by decreasing the distance between the structure and the Ordinary High Water Mark shall require a variance.</u> <del>d. Alterations shall comply with applicable development regulations in the Olympia Municipal Code.</del> 2. Overwater Structures – Alteration of structures located water-ward of the Ordinary High Water Mark is prohibited except: c. Except for modifications required by the Washington Department of Natural Resources for light penetration, alterations to the footprint or building envelope are prohibited. 3. <del>Other Regulations applicable to OMC 18.37.092(A)(1) and (2).</del> <del>a. Actions shall not result in a net loss of shoreline ecological functions and processes and ; b. If the applicant shall obtain all required permits or approvals prior to construction;</del> <del>c. Structures that are damaged and house a nonconforming use may be re-established in accordance with OMC 18.37.920.</del> <u>5. All alterations shall comply with applicable development regulations in the Olympia Municipal Code.</u>  B. Unintentionally damaged or destroyed <u>nonconforming</u> structures.	<i>These changes are recommended for clarity and consistency and to correct grammatical errors. See also required change UU.</i>  <i>With regard to the changes to provision #3, the first change (strike out) is recommended because this language is unnecessary and the reference is inaccurate. Sub-provisions a and b can be consolidated into one sentence. The change (strike out) of sub-provision c is recommended because it is repetitive of provision B(2) that follows and the reference to subsection .920 is incorrect.</i>	Staff concurs with this set of changes. Although complex, we believe they clarify and are consistent with the spirit of the nonconforming provision in the version of the Program approved by Council in 2013.
PPP	Chapter 3.82 Page 89	Existing Shoreline Uses	<b>3.82 18.34.920 – Existing <u>Nonconforming Shoreline Uses and Lots</u></b> A. <del>Conversions</del> <u>Nonconforming uses in shoreline jurisdiction shall be</u>	<i>The change to the title of this section is recommended for clarity. Furthermore, the addition of “lots” is recommended</i>	Further consultation with Ecology staff on this issue is recommended. Incorporating a version

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [ <u>underline-additions; strikethrough-deletions</u> ]	ECOLOGY - DISCUSSION/RATIONALE	OLYMPIA STAFF COMMENTS
			<p><u>governed by OMC 18.37.060 (A) and (E), except expansion of nonconforming shoreline uses. The hearings examiner may authorize expansion of a use that does not conform to the Master Program provided the applicant can demonstrate all of the following:</u></p> <p><u>1. The use clearly requires a specific site location on the shoreline not provided for under this Chapter; and</u></p> <p><u>2. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this Chapter.</u></p> <p><u>Expansion of uses in shoreline jurisdiction that are also nonconforming with zoning use restrictions shall not be authorized.</u></p> <p><u>B. Nonconforming lots in shoreline jurisdiction shall be governed by OMC 18.37.080.</u></p>	<p><i>because nonconforming lots are not addressed in the SMP. If they are not addressed in the SMP, they will be subject to the requirements in WAC 173-27-080. The change to reference the zoning code (OMC 18.37.060) is recommended to avoid repeating word for word an entire section that already exists in the OMC and applies city wide.</i></p> <p><i>As outlined in recommended change O above, Ecology recommends moving the resumption and expansion of nonconforming uses language into this section. With regard to resumption, criteria and a process for resuming discontinued nonconforming uses exist in the City's zoning code. For both, necessitating Ecology review by requiring a shoreline conditional use permit does not appear to add value to the process.</i></p>	<p>of the existing nonconforming use provisions of the zoning code into the Shoreline Master Program – as recommended by Ecology – will require further editing. City staff is of the opinion that a version meeting the intent can readily be achieved, but desires to consult with Ecology staff before proposing specific language.</p>

## Shoreline Master Programs (SMPs)

### SHORELINE MASTER PROGRAMS

[Citizen Guide](#)  
[Shoreline Planners Toolbox](#)  
[Permits and Enforcement](#)  
[Aquaculture](#)  
[Green Shorelines](#)  
[Media Kit](#)

[Laws, Rules, and Cases](#)  
[News](#)  
[Publications](#)  
[Contacts](#)

### RELATED ECOLOGY PROGRAMS

[Shorelands and Environmental Assistance](#)

[SEA Program home](#) > [Shoreline Management home](#) > [SMP home](#) > [Citizen Guide](#) > Olympia Shoreline Master Program Comprehensive Update

## Olympia Shoreline Master Program: Comprehensive Update

On April 22, 2015, the Department of Ecology provided the City of Olympia with required and recommended changes to the city's proposed comprehensive update of its Shoreline Master Program (SMP).

The changes are based on Ecology's review of whether or not the proposed update complies with state laws and rules, and a public comment period held July 23 to September 8, 2014. Ecology also held an open house and public hearing at The Olympia Center on July 31, 2014. Approximately 30 interested parties attended the open house and hearing and 10 people testified.

Ecology used mail and email to notify interested parties of the public comment period and public hearing. Ecology also issued a news release and legal ad to encourage public participation and comment. Ecology received over 60 individual written and verbal comments. Comments focus on sea level rise and flooding, setbacks, building heights, and nonconforming use and structure provisions. On September 23, 2014, Ecology sent a summary of comments to the city for its response. The public comments and city and state's responses have been incorporated into a [Responsiveness Summary](#).

The comprehensive update will revise the existing shoreline program, including the goals, policies, regulations, shoreline environment designations, and administrative procedures and definitions. The required and recommended changes have been sent to the city for its review and response. The city may agree to these changes or offer alternative language. Final Ecology approval will occur when the city and Ecology agree on language that meets state requirements.

Including its Urban Growth Area, Olympia has approximately 10 miles of Puget Sound shoreline along Budd Inlet and more than 20 miles of freshwater shoreline along the Black Lake Drainage Ditch, Percival Creek, Capitol Lake, Chambers Lake, Grass Lake, Ken Lake and Ward Lake. The updated program advances shoreline habitat protection while planning for public access, recreation, new development and continuation of established development. The updated program adopts the city's Critical Areas Ordinance by reference, with revisions and clarifications, to protect and manage critical areas within shoreline jurisdiction.

### Documents related to approval

Note: All documents are PDF

- [Director of Ecology's conditional approval letter, April 22, 2015](#) (402 KB)
  - [Attachment A: Findings and Conclusions for Proposed Amendments](#) (407 KB)
  - [Attachment B: Required Changes](#) (246 KB)
  - [Attachment C: Recommended Changes](#) (285 KB)
    - [Attachment C, Exhibit C-1: Recommended Change Item "BBB"](#) (74 KB)
  - [Attachment D: Responsiveness Summary](#) (205 KB)
- [Council Resolution No. M1797, October 2013](#) (137 KB)
  - [Locally adopted Shoreline Master Program, October 2013](#) (2,246 KB)
    - [Appendix A: Restoration Plan, Draft, June 12, 2012](#) (3,945 KB)
  - [Chapter 18.32 Critical Areas, Olympia Municipal Code](#) (3,011 KB)
  - [Chapter 18.06.100 A.2.C Commercial Districts, Olympia Municipal Code – West Bay Building Height and View Blockage Regulations](#) (344 KB)
- Background documents
  - Shoreline Inventory and Characterization
    - [Part 1: Shoreline Inventory for the Cities of Lacey, Olympia, Tumwater and their Urban Growth Areas, Final Proposed, June 2009](#) (4,376 KB)
      - [Inventory Maps Part A – Olympia only, June 2009](#) (4,416 KB)
      - [Inventory Maps Part B – Olympia only, June 2009](#) (3,305 KB)
    - Part 2: Inventory Appendix, Final Proposed, June 2009
      - [Part A](#) (3,066 KB)
      - [Part B](#) (2,634 KB)
    - [Part 3: Lacey, Olympia, and Tumwater Shoreline Analysis & Characterization Report, December 2008](#) (3,411 KB)
  - [Cumulative Impacts Assessment, Final, December 2013](#) (2,363 KB)

Paper copies of the above documents are available by contacting Chrissy Bailey (see below), Washington Department of Ecology.

### Staff contact

Chrissy Bailey  
 Washington Department of Ecology

Southwest Regional Office  
PO Box 47775  
Olympia, Washington 98504-7775  
Email: [Chrissy.Bailey@ecy.wa.gov](mailto:Chrissy.Bailey@ecy.wa.gov)  
Phone: 360-407-0290

### For more information

- [News Release: Olympia shoreline program open for final review \(July 23, 2014\)](#)
- [Olympia Shoreline Master Program](#)
- [Citizen Guide to Shoreline Master Programs](#)
- [Status of Local Shoreline Master Programs](#)

[Back to Top](#)



Copyright © Washington State Department of Ecology  
[Contact Us](#) | [Privacy Notice](#) | [Site Info](#) | [Accessibility](#)



## Section 1

## General Provisions

[This section of the Shoreline Master Program is applicable to the entirety of the Program including the goals, policies and regulations.]

- 1.1 Introduction
- 1.2 Other Policy and Regulatory Tools
- 1.3 Purpose and Intent
- 1.4 Title
- 1.5 Adoption Authority
- 1.6 Critical Areas Adopted by Reference
- 1.7 Severability
- 1.8 Effective Date

### 1.1. Introduction

The shorelines of Olympia have great social, ecological, recreational, cultural, economic and aesthetic value. Grass Lake, Capitol Lake, Ward Lake, Ken Lake, Percival Creek, and Olympia's marine shoreline areas provide citizens and the community with clean water; a deepwater port and industrial sites; habitat for a variety of fish and wildlife including salmon, shellfish, forage fish, and waterfowl; archaeological and historical sites; open space; and areas for boating, fishing, and other forms of recreation. However, Olympia's shoreline resources are limited and irreplaceable. Use and development of shoreline areas must be carefully planned and regulated to ensure that these values are maintained over time.

The City of Olympia Shoreline Master Program (SMP or the Program) is a result of Washington State legislation requiring all jurisdictions to adequately manage and protect shorelines of the State.

Washington's Shoreline Management Act (SMA or Act) (Revised Code of Washington [RCW] 90.58 48) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is "to prevent the inherent harm of uncoordinated and piecemeal development of the State's shorelines." The Act specifically states:

*"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."*

The City of Olympia prepared this SMP to meet the requirements of the Washington State SMA. This SMP provides goals, policies, and regulations for shoreline use and protection and establishes a permit system for administering the Program. The goals, policies, and regulations contained herein are tailored

**Comment [NL1]:** This change is recommended to correct an incorrect citation.

to the specific geographic, economic, and environmental needs of the City of Olympia and its varied shorelines.

The Shoreline Management Act and its implementing legislation (Washington Administrative Code [WAC] 173-26 or Shoreline Guidelines) establish a broad policy giving preference to shoreline uses that:

- Depend on proximity to the shoreline ("water-dependent uses"),
- Protect biological and ecological resources, water quality and the natural environment, and
- Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

The overall goal of this SMP is to:

*Develop the full potential of Olympia's shoreline in accord with the unusual opportunities presented by its relation to the City and surrounding area, its natural resource values, and its unique aesthetic qualities offered by water, topography, views, and maritime character; and to develop a physical environment which is both ordered and diversified and which integrates water, shipping activities, and other shoreline uses with the structure of the City while achieving a net gain of ecological function.*

In implementing this Program, the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the State shall be preserved to the greatest extent feasible. Implementing the SMP must protect the ecological functions of shorelines and, at a minimum, achieve 'no net loss' of ecological functions. Single-family residences; ports; shoreline recreational uses (including but not limited to parks, marinas, piers, and other improvements); water-dependent industrial and commercial developments; and other developments that depend on a shoreline location shall be given priority. Permitted shoreline uses shall be designed and conducted to minimize damage to the ecology of the shoreline and/or interference with the public's use of the water and, where consistent with public access planning, provide opportunities for the general public to have access to the shorelines.

The City of Olympia last updated its SMP in 1994. Since that time, there have been substantial changes in the way shorelines are regulated. New scientific data and research methods have improved our understanding of shoreline ecological functions and their value in terms of fish and wildlife, water quality and human health. This information also helps us understand how development in these sensitive areas impacts these functions and values. The new Shoreline Guidelines, upon which this SMP is based, reflect this improved understanding and place a priority on protection and restoration of shoreline ecological functions.

In order to protect the public interest in the preservation and reasonable use of the shorelines of the State, the Shoreline Management Act establishes a planning program coordinated between the State and local jurisdictions to address the types and effects of development occurring along the State's shorelines. By law, the City is responsible for the following:

## The City of Olympia’s Role in Implementing the Shoreline Management Act

- A. Development of an inventory of the natural characteristics and land use patterns along “shorelines of the State” within the City’s territorial limits. This inventory provides the foundation for development of a system that classifies the shoreline into distinct “environments”. These environments provide the framework for implementing shoreline policies and regulatory measures.
- B. Preparation of a "Shoreline Master Program" to determine the future of the shorelines. This future is defined through the goals developed for the following land and water use elements: economic development, public access, circulation, recreation, shoreline use, conservation, historical/cultural protection, and floodplain management. Local government is encouraged to adopt goals for any other elements, which, because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the Shoreline Management Act. In addition, policy statements are developed to provide a bridge between the goals of the Master Program and the use and modification activity regulations developed to address different types of activities and development along the shoreline.
- C. Development of a permit system to further the goals and policies of both the Act and the local Master Program.

Local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements. The City of Olympia Shoreline Master Program must be consistent with the policies and requirements of the Shoreline Management Act and the State Shoreline Guidelines. The role of the Department of Ecology is to provide support and review of the Shoreline Master Program and subsequent shoreline development permits and approvals.

The Shoreline Management Act defines a Master Program as a “comprehensive use plan for a described area.” The shoreline planning process differs from the more traditional planning process in that the emphasis is on protecting the shoreline environment through management of uses. The purposes of this Master Program are:

### How to Use This Document

The City of Olympia’s SMP includes goals, policies and regulations. The SMP is a comprehensive plan for how shorelines should be used and developed over time. Goals, policies and regulations provide direction for shoreline users and developers on issues such as use compatibility, setbacks, public access, building height, parking locations, mitigation, and the like.

The following summary provides an overview of the Olympia Shoreline Master Program (SMP or Program) contents with a brief explanation of its general format and procedures.

SMP Section 1 introduces the purposes and intent of the Program, explains the City’s authority to regulate shorelines and explain the Program’s relationship to other ordinances and laws. Chapter 1 also explains the types of development the Program has jurisdiction over.

Section 2 provides goals and policies for the SMP. These goals and policies will become part of the City of Olympia’s Comprehensive Plan.

**Comment [NL2]:** The first change is **recommended** because policies inform regulations relating to shoreline modifications as well as shoreline uses (section 2.30). The second change is recommended to clarify that all development and uses within shoreline jurisdiction, regardless of whether or not a development (as defined in the SMA) permit is required, must be carried out consistent with the Master Program.

**Comment [NL3]:** This change is **recommended** to remove what appears to be a typographic error (typo).

Section 3 provides general policies and regulations that apply throughout the shoreline, in all shoreline districts and environment designations. Some of the key provisions of this section address shoreline use, site planning, building heights and setbacks, marine shoreline and critical areas protection, public access, vegetation conservation, views and aesthetics, water quality and the effect of the SMP on existing uses and structures.

The SMP also includes a Restoration Plan as Appendix A. The Restoration Plan is intended to identify shoreline, or areas upland that impact shorelines, that need to be restored to a healthy and functioning condition. The Plan is for the purpose of identifying potential projects and programs that would contribute or achieve restoration for those degraded areas, and can serve as a resource for those who need or want to identify potential restoration projects.

If you intend to develop or use lands adjacent to a shoreline (“shoreline jurisdiction” generally includes water areas and lands within 200 feet of the ordinary high water mark – see chapter 3.16 for the complete definition), consult first with the City of Olympia’s Community Planning and Development Department to determine if you need a shoreline permit; they will also tell you about other necessary government approvals.

**Comment [NL4]:** This change is recommended because the term “shoreline jurisdiction” is used multiple times in Sections 1 and 2 of the document but is not defined until Section 3.16.

**Initial Procedures**

Although your proposal may be permitted by Program regulations or even exempt from specific permit requirements, all proposals must comply with all relevant policies and regulations of the entire Program as well as the general purpose and intent of the SMP.

For development and uses allowed under this Program, the City must find that the proposal is generally consistent with the applicable policies and regulations, unless a variance is to be granted. When your proposal requires a “Letter of Exemption,” submit the proper application to the City’s Community Planning and Development Department.

**1.2 Other Policy and Regulatory Tools**

The SMP is a fundamental regulatory tool that the City of Olympia uses to manage development along its shoreline. While not explicitly part of the SMP, it is the City’s intent to employ other regulatory tools to work in concert with the SMP to form the City’s policy and regulatory framework for the shoreline and the rest of the City, thereby achieving the purpose and intent of the various policies and incentives established in this program. Within the jurisdiction of the shoreline, these other tools will be exercised in a manner which promotes and aligns with the implementation of this SMP. The table below provides a list of these regulations and a summary of some of the key issues they address. In addition to the policy and regulatory tools noted below the City also has a series of master plans such as the Parks, Arts and Recreation Plan, the Utility Plan and the West Bay Master Plan that help to shape policy and regulations.

Summary of Regulatory and Policy Tools that Impact Development Along the Shoreline and Throughout the City										
Issue	SMP	Comp Plan	Zoning Code	EDDS	Storm Water Manual	CAO	Flood Plain	SEPA	CFP	Bldg. Codes
Shoreline Uses	X	X	X			X <sup>1</sup>				
Setbacks	X		X							
Heights	X	X	X							
View Protection	X	X	X					X		
Sea Level Rise		X	X	X			X	X	X	
No Net Loss	X	X			X	X		X		
Vegetation Preservation	X	X	X <sup>2</sup>			X				
Liquefaction										X
Development Review Process	X		X					X		
Nonconformities	X		X							
Vision	X	X								
Public Access	X	X	X					X		
Trails	X	X	X	X						
<p>SMP = Shoreline Master Program  EDDS = Engineering Development &amp; Design Standards  CAO = Critical Areas Ordinance  SEPA = State Environmental Policy Act  CFP = City's Capital Facilities Plan  X = Primary Function</p> <p>See table below for additional information on Shoreline Issues and other regulatory approaches to addressing those issues.</p>										

**1.3. Purpose and Intent**

The purpose of Olympia’s Shoreline Master Program is:

- A. To guide the future development of shorelines in the City of Olympia in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (Act) as amended (RCW 90.58);

<sup>1</sup> CAO applies to the shoreline and is a separate regulatory document: however following adoption of the SMP, the CAO will be incorporated into the SMP by reference.

<sup>2</sup> Technically the Tree Code

- B. To promote the public health, safety, and general welfare of the community by providing long-range, comprehensive policies and effective, reasonable regulations for development and use of Olympia’s shorelines; and
- C. To ensure, at a minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the policy contained in RCW 90.58.020, Legislative Findings for shorelines of the State.

**1.4 Title**

This document together with the Restoration Plan (Appendix A) shall be known as the Olympia Shoreline Master Program or Shoreline Program.

**1.5 Adoption Authority**

This Shoreline Master Program is adopted under the authority granted by RCW 90.58 and WAC 173-26.

**1.6 Critical Areas Regulations and West Bay Drive Regulations Adopted by Reference**

The Critical Areas regulations **adopted in effect** on October 1, 2013 contained in the Olympia Municipal Code (OMC) Chapter 18.32, **and 16.70** are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

**Comment [NL5]:** The first change is **required** for compliance with 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.” Resolution M1797 passed on October 1, 2013 references OMC 18.32 (critical areas regulations), but did include adoption of new or revised critical area regulations.

The second change is **required** for consistency with WAC 173-26-221 (2)(a)(ii). See also Ecology’s correspondence to the City on this topic dated November 29, 2011 and December 28, 2012.

**1.7 Severability**

The Act and this Shoreline Program adopted pursuant thereto comprise the basic state and City regulations for the use of shorelines in the City. In the event the provisions of this Shoreline Program conflict with other applicable City policies or regulations, the more restrictive shall prevail. Should any section or provision of this Shoreline Program be declared invalid, such decision shall not affect the validity of this Shoreline Program as a whole.

**1.8 Effective Date**

This Shoreline Program and any amendments thereto shall become effective fourteen (14) days following the date of **written notice of final approval action** by the Washington State Department of Ecology.

**Comment [NL6]:** This change is **required** in accordance with RCW 90.58.090 (7).

## SECTION 2

## Goals and Policies

[This section of the Shoreline Master Program is proposed as an amendment to and would be added to the Environment Chapter of the “Comprehensive Plan for Olympia and the Olympia Growth Area.” Upon incorporation the goals and policies would be numbered consistently with the form and content of the Plan.]

### 2.1 Shoreline Master Program Goals and Policies

The goals, policies and regulations of Olympia’s Shoreline Master Program are based on the governing principles in the Shoreline Master Program Guidelines, WAC 173-26-186 and the policy statement of RCW 90.58.020. It is the policy of the City to provide for the management of the shorelines of Olympia 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.

- A. The interest of all of the people shall be paramount in the management of those areas of Puget Sound lying seaward from the line of extreme low tide. Within this area the City will give preference to uses in the following order of preference which:
  - 1. Recognize and protect the state-wide interest over local interest;
  - 2. Preserve the natural character of the shoreline;
  - 3. Result in long-term over short-term benefit;
  - 4. Protect the resources and ecology of the shoreline;
  - 5. Increase public access to publicly-owned areas of the shorelines;
  - 6. Increase recreational opportunities for the public in the shoreline;
  - 7. Provide for any other element as defined in RCW 90.58.100 as deemed appropriate or necessary.
- B. The policies of Olympia’s Shoreline Program may be achieved by diverse means, one of which is regulation. Other means may include but are not limited to acquisition of lands and/or easements by purchase or gift, incentive programs, and implementation of capital facility and/or non-structural programs.
- C. Regulation of private property to implement Shoreline Program goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations.
- D. Regulatory or administrative actions must be implemented consistent with the Public Trust Doctrine and other applicable legal principles as appropriate and must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
- E. The regulatory provisions of this Shoreline Program are to be limited to shorelines of the State, whereas the planning functions of the Program may extend beyond the designated shoreline boundaries.

- F. The policies and regulations established by this Shoreline Program are to be integrated and coordinated with the other goals, policies and rules of the Olympia Comprehensive Plan and development regulations adopted under the Growth Management Act (GMA).
- G. The policies and regulations of Olympia's Shoreline Program are intended to protect shoreline ecological functions by:
  - 1. Requiring that current and potential ecological functions be identified and understood when evaluating new or expanded uses and developments;
  - 2. Requiring adverse impacts to be mitigated in a manner that ensures no net loss of shoreline ecological functions. Mitigation shall include avoidance as a first priority, followed by minimizing, and then replacing/compensating for lost functions and/or resources;
  - 3. Ensuring that all uses and developments, including preferred uses and uses that are exempt from a shoreline substantial development permit, will not cause a net loss of shoreline ecological functions;
  - 4. Preventing, to the greatest extent practicable, cumulative impacts from individual developments;
  - 5. Fairly allocating the burden of preventing cumulative impacts among development opportunities; and
  - 6. Including incentives to restore shoreline ecological functions where such functions have been degraded by past actions.

## **2.2 Shoreline Ecological Protection and Mitigation Goals**

- A. The Shoreline Management Act and the Shoreline Master Program Guidelines place a primary emphasis on the protection of shoreline ecological functions and system-wide processes. In accordance with the Guidelines (WAC 173-26), Olympia's Shoreline Program must insure that shoreline uses, activities, and modifications will result in no net loss to these processes and functions.
- B. The protection, restoration and enhancement of shoreline ecological functions and system-wide processes, especially as they pertain to the long-term health of Budd Inlet, are high priorities of Olympia's Shoreline Program. The policies and regulations established therein are to be applied to all uses, developments and activities that may occur within the shoreline jurisdiction.
- C. The City recognizes that there are many existing sources of untreated stormwater within the shoreline jurisdiction and that these sources of nonpoint pollution have negative impacts on shoreline ecological functions. The City's Drainage Design and Erosion Control Manual of Olympia is the primary regulatory tool that addresses stormwater treatment and is periodically updated in response to changing guidelines from the Department of Ecology and changes in best management practices.

## **2.3 Shoreline Ecological Protection and Mitigation Policies**

- A. All shoreline use and development should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas that are located within the shoreline jurisdiction.

- B. Natural features of the shoreline and nearshore environments that provide ecological functions and should be protected include but are not limited to marine and freshwater riparian habitat, banks and bluffs, beaches and backshore, critical saltwater and freshwater habitat, and wetlands and streams. Shoreline processes that should be protected include but are not limited to erosion and accretion, sediment delivery, transport and storage, organic matter input, and large woody debris recruitment. See WAC 173-26-201(2)(c).
- C. Preserve and protect important habitat including but not limited to the Port Lagoon, Priest Point Park, Ellis Cove, Grass Lake, Chambers Lake, and Percival Canyon.
- D. Development standards for density, setbacks, impervious surface, shoreline stabilization, vegetation conservation, critical areas, and water quality should protect existing shoreline functions and processes. During permit review, the Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.
- E. Where a proposed use or development creates significant adverse impacts not otherwise avoided or mitigated by compliance with Olympia's Shoreline Program, mitigation measures should be required to ensure no net loss of shoreline ecological functions and system-wide processes.
- F. The City should work with other local, state, and federal regulatory agencies, tribes, and non-government organizations to ensure that mitigation actions carried out in support of the Olympia Shoreline Program are likely to be successful and achieve beneficial ecological outcomes. This includes such measures as mitigation banks, fee in lieu programs, and assisting applicants/proponents in planning, designing, and implementing mitigation.
- G. The City should develop a program to periodically review conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore shoreline ecology to ensure no net loss of ecological functions.
- H. Allow offsite mitigation when doing so would serve to better accomplish the goals and objectives of the Shoreline Management Act to protect and preserve ecological functions, or provide public access, or promote preferred shoreline uses, provide for appropriate development incentives and/or alternative mitigation options.
- I. The City should encourage innovative mitigation strategies to provide for comprehensive and coordinated approaches to mitigating cumulative impacts and restoration rather than piecemeal mitigation.
- J. When available and when appropriate to the situation, the City should allow for offsite mitigation approaches, including Advance Mitigation, Fee-In Lieu, and Mitigation Banking.
- K. As part of the next update of the Drainage Design and Erosion Control Manual of Olympia, the City will consider methods and measures to encourage existing development, redevelopment and new development within the shoreline jurisdiction to comply with the City's Drainage Design and Erosion Control Manual of Olympia and best management practices.

#### **2.4 Shoreline Use and Development Policies**

- A. The City should give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the State's shoreline areas.

- B. The City should ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act.
- C. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the State's shoreline. In implementing this provision, preference should be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.
- D. The City should continue to develop information about the impacts of sea level rise on the shoreline and other affected properties; the City should develop plans to address the impacts of sea level rise in collaboration with impacted property owners, the community and the Department of Ecology. These plans should include at minimum flood prevention approaches, shoreline environment impact considerations and financing approaches. The City should amend the Shoreline Master Program and other policy and regulatory tools in the future as necessary to implement these plans.
- E. The City should consider the impacts of sea level rise as it plans for the rebuild of Percival Landing and other shoreline improvements and it should be designed to provide for a reasonable amount of sea level rise consistent with the best available science and the life cycle of the improvements.
- F. The City should collaborate with private property owners, business owners and citizens in the implementation of the Shoreline Master Program to explore creative ways to reduce ecological impacts when new development or redevelopment is proposed. This objective may best be accomplished by developing flexible approaches to shoreline development where the total environmental benefit is enhanced through such measures. Opportunities for collaboration may include:
  - 1. Provision of advanced stormwater management and treatment within the shoreline.
  - 2. The restoration, repair and replacement of Percival Landing where appropriate.
  - 3. Provision of direct physical access to the water where appropriate.
  - 4. Provision of a shoreline trail where feasible and consistent with applicable laws.
  - 5. Provision of native vegetation preservation and restoration where appropriate.
  - 6. Bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of Ordinary High Water Mark (OHWM) where appropriate.
  - 7. Provision of water related recreation, active playgrounds, and significant art installations, performance space, or interpretive features where appropriate.

## **2.5 Aquatic Environment Management Policies**

- A. The *Aquatic* environment designation should apply to lands water-ward of the Ordinary High Water Mark.

- B. Allow new overwater structures only for water-dependent uses, public access, or ecological restoration.
- C. The size of new overwater structures should be the minimum necessary to support the structure's intended use.
- D. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of overwater facilities should be encouraged.
- E. All development and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- F. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
- G. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- H. Space for preferred shoreline uses should be reserved. Such planning should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical wildlife habitats, aesthetics, public access and views.

## **2.6 Natural Environment Management Policies**

- A. The *Natural* environment designation should be assigned to shoreline areas if any of the following characteristics apply:
  1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
  2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
  3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.
- B. Priest Point Park is one of a few shorelines along Budd Inlet that is ecologically intact. Therefore, any use or modification that would substantially degrade the ecological functions or natural character of this shoreline area should not be allowed.
- C. Scientific, historical, cultural, educational research uses, and water-oriented recreation access may be allowed provided that no significant ecological impacts on the area will result. Recreation uses should be limited to trails and viewing areas.
- D. Uses should be highly restricted and allowed only with a conditional use permit for water-oriented recreational uses.
- E. New roads, utility corridors, and parking areas should be located outside of the shoreline jurisdiction.

## **2.7 Urban Conservancy Management Policies**

- A. The *Urban Conservancy* environment designation should be applied to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities and urban growth areas if any of the following characteristics apply:
  - 1. They are suitable for water-related or water-enjoyment uses;
  - 2. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
  - 3. They have potential for ecological restoration;
  - 4. They retain important ecological functions, even though partially developed; or
  - 5. They have potential for development that is compatible with ecological restoration.
- B. Uses that preserve the natural character of the area or promote preservation of open space or critical areas should be the primary allowed use. Uses that result in the restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the *Urban Conservancy* environment and the setting.
- C. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade shoreline values.
- D. Public access trails and public passive recreation should be provided whenever feasible and significant ecological impacts can be mitigated.
- E. Water-oriented uses should be given priority over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- F. Restoration and protection of shorelands, stream openings and associated wetlands within the *Urban Conservancy* environment should be given high priority.

## **2.8 Waterfront Recreation Management Policies**

- A. The *Waterfront Recreation* environment designation should be assigned to shoreline areas that are or are planned to be used for recreation, or where the most appropriate use is for recreation open space or habitat conservation.
- B. Development standards should take into account existing improvements and character of park areas, allow for development of low-intensity recreational uses, and restoration of shorelines. Low intensity recreation should be non-motorized and not significantly alter the landscape, such as running and walking, bicycling, wildlife viewing, picnicking, nature study, and quiet contemplation and relaxation. Associated facilities might include trails, open fields and lawn areas, picnic shelters, public art, interpretive exhibits and supporting parking and restrooms.
- C. Trails, water access, interpretive sites, viewing platforms and passive recreation areas should be allowed within setbacks and vegetation buffers when significant ecological impacts can be mitigated.
- D. Preferred uses include trails, water-related recreation, active playgrounds, and significant art installations, performance space, interpretive features, open lawn areas, play equipment, shelters, picnic areas, launch ramps, viewing platforms and accessory uses. Special events may take place.

- E. Shoreline restoration should be a priority. All development should ensure no net loss of shoreline ecological functions.

## **2.9 Marine Recreation Management Policies**

- A. The *Marine Recreation* environment designation should be assigned to areas on the Port Peninsula that are used or planned to be used for boating facilities, water-oriented recreation and commercial uses. Preferred uses include:
  - 1. Boating facilities including marinas, launch ramps, boat moorage, maintenance and repair, and upland boat storage; together with offices and other associated facilities;
  - 2. Water-oriented recreation such as trails and viewing areas; water access, water-related recreation, active playgrounds, and significant art installations, performance space, or interpretive features; and
  - 3. Water-oriented commercial uses.
- B. Operation and management of the *Marine Recreation* environment should be directed towards maintaining and enhancing water-oriented services, while ensuring that existing and future activity does not degrade ecological functions.
- C. All development should ensure no net loss of shoreline ecological functions.
- D. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- E. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.
- F. The City recognizes the Port's responsibility to operate its marine facilities and to plan for this area's future use through the development and implementation of its Comprehensive Scheme of Harbor Improvements.
- G. The City recognizes that the Marine Recreation shoreline (Reach 5C) and the adjoining Urban Conservancy/Urban Intensity shoreline in Reach 6A provide a variety of benefits to the community including boat moorage, utility transmission, transportation, public access, water enjoyment, recreation, wildlife habitat and opportunities for economic development. These benefits are put at risk by continued shoreline erosion. The City recognizes that there exists a need to develop a detailed plan for shoreline restoration and stabilization for Reaches 5C and 6A and encourages the Port to partner in this effort.
  - 1. This plan may include:
    - a. Measures to enhance shoreline stabilization through the introduction of bioengineered solutions.
    - b. Measures to incorporate habitat restoration water-ward of the OHWM.
    - c. Measures to incorporate public access and use through trails, public art, parks and other pedestrian amenities.
    - d. Measures to incorporate sea level rise protection.

- e. Setbacks, building heights and building design considerations.
2. Upon completion of a jointly developed shoreline restoration and stabilization plan for Reaches 5C and 6A, the City will initiate a limited amendment to the SMP to implement this plan.

**2.10 Shoreline Residential Management Policies**

- A. The *Shoreline Residential* environment designation should be applied to shoreline areas if they are predominantly single-family or multi-family residential development or are planned and platted for residential development.
- B. Establish standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- C. Multi-family development and subdivisions of land into more than nine (9) parcels should provide public access.
- D. Commercial development should be limited to water-oriented uses and not conflict with the character in the *Shoreline Residential* environment.
- E. Water-oriented recreational uses should be allowed.
- F. Encourage restoration of degraded shorelines in residential areas and preservation of existing vegetation.
- G. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures ~~water-ward~~ water-ward of OHWM.

**Comment [NL7]:** This change is recommended to correct a typo.

**2.11 Urban Intensity Management Policies**

- A. The *Urban Intensity* environment should be assigned to shoreline areas if they currently support high intensity uses related to commerce, industry, transportation or navigation, and high-density housing; or are suitable and planned for high-intensity water-oriented uses.
- B. Olympia’s shoreline is characterized by a wide variety of “urban” uses and activities, including commercial, industrial, marine, residential, and recreational uses. Together, these uses and activities create a vibrant shoreline that is a key component of Olympia’s character and quality of life. These types of uses should be allowed within the *Urban Intensity* environment, with preference given to Water-Dependent and Water-Enjoyment uses. Shorelines in this Shoreline Environment Designation (SED) are highly altered and restoration opportunities are limited. The City’s own Percival Landing is a good example of how the immediate shoreline in the Urban Intensity SED should be redeveloped with a focus on public access and enjoyment, sea level rise protection and restoration of shoreline environmental function where feasible.
- C. Nonwater-oriented uses may be allowed where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
- D. Preferred uses include ~~Water-oriented~~ recreation such as trails and viewing areas, water access, water-related recreation, active playgrounds, and significant art installations, performance space, or interpretive features. ~~;~~ and
- E. Provide for the restoration, repair and replacement of Percival Landing including consideration of sea level rise protection. ~~;~~ and

**Comment [NL8]:** This change/addition is recommended for clarity; this is the first time this acronym is used in the document.

**Comment [NL9]:** These changes are recommended to correct what appear to be grammatical errors. The first sentence was incomplete as written. The second sentence (and the first) were written as if they were part of a series (“; and”), but this relationship is not clear.

- F. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- G. Where feasible visual and physical public access should be required as provided for in WAC 173-26-221(4)(d) and this shoreline program.
- H. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and vegetation conservation measures.
- I. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- J. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.

### **2.12 Port Marine Industrial Management Policies**

- A. The *Port Marine Industrial* environment should be assigned to the shoreline area located within the portion of the Port of Olympia that supports uses related to water-oriented commerce, transportation or navigation, or are planned for such uses.
- B. Highest priority should be given to water-dependent and water-related industrial uses.
- C. The preferred location for non-water-dependent industrial uses is in industrial areas as far from the shoreline as feasible.
- D. Coordinate planning efforts to ensure that there is adequate land reserved for water-dependent industrial uses to promote economic development, and to minimize impacts upon adjacent land uses.
- E. Encourage growth and re-development in areas that are already developed.
- F. Industrial use and development should be located, designed, and operated to avoid or minimize adverse impacts upon the shoreline and achieve no net loss of shoreline ecological functions and processes.
- G. Industrial uses and related development projects are encouraged to locate where environmental cleanup can be accomplished.
- H. Encourage the cooperative use of docking, parking, cargo handling and storage facilities on industrial properties.
- I. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.

### **2.13 Archaeological, Historic, and Cultural Resources Policies**

- A. The destruction or damage to any site having any archaeological, historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Office of Archaeology and Historic Preservation, should be prevented.

### **2.14 Parking Policies**

- A. Motor vehicle parking is not a preferred use within the shoreline jurisdiction and should be allowed only as necessary to support authorized uses.

- B. Where feasible, parking for shoreline uses should be located in areas outside the shoreline jurisdiction; otherwise locate parking as far landward of the Ordinary High Water Mark as feasible.
- C. Parking facilities or lots within the shoreline jurisdiction should utilize low impact best management practices where feasible to reduce stormwater impacts.
- D. Design and construct parking facilities or lots to be compatible with adjacent uses and to avoid impacts to the shoreline environment.
- E. Provide walkways between parking areas and the buildings or uses they serve. Such walkways should be located as far landward of the Ordinary High Water Mark as feasible.

#### **2.15 Public Access**

- A. Protect and maintain existing visual and physical public access so that the public may continue to enjoy the physical, visual, and aesthetic qualities of the shoreline.
- B. Incorporate public access into all new development or redevelopment if it creates or increases a demand for public access. Public access should also be required if the proposed use or development impairs existing legal access or rights.
- C. Protect the rights of navigation and space necessary for water-dependent uses when identifying locations for public access.
- D. Public access should be commensurate with the scale and character of a proposed use or development. Requirements should be reasonable, effective and fair to all affected parties including but not limited to the landowner and the public.
- E. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's use of the water or rights of navigation.
- F. Impacts resulting from public access improvements should be mitigated in order to avoid a net loss of shoreline ecological processes and functions.
- G. Public access should be designed to provide for public safety and comfort, and to limit potential impacts to private property.
- H. Public access should be designed with provisions for persons with disabilities.
- I. Public access should connect to public areas, undeveloped right-of-way, and other pedestrian or public thoroughfares.
- J. Public access and interpretive displays should be provided as part of publicly-funded projects.

#### **2.16 Scientific and Educational Activity Policies**

- A. Encourage scientific and educational activities related to shoreline ecological functions and processes.

#### **2.17 Signage Policies**

- A. Signs should not block or otherwise interfere with visual access to the water or shorelands.
- B. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.

## **2.18 Vegetation Conservation Areas Policies**

- A. Developments and activities within the shoreline jurisdiction should be planned and designed to protect, conserve and establish native vegetation in order to protect and restore shoreline ecological functions and system-wide processes occurring within riparian and nearshore areas such as:
1. Providing shade necessary to maintain water temperatures required by salmonids, forage fish, and other aquatic biota;
  2. Regulating microclimate in riparian and nearshore areas;
  3. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macro invertebrates;
  4. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides;
  5. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff;
  6. Improving water quality through filtration and vegetative uptake of nutrients and pollutants;
  7. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonids and other species; and
  8. Providing habitat for wildlife, including connectivity for travel and migration corridors.
- B. Restrict clearing and grading within vegetation conservation areas in order to maintain the functions and values of the shoreline environment, including protection of habitat, steep slopes and shoreline bluffs. Any alterations should be the minimum necessary to accommodate an authorized use or development.
- C. The composition, structure and density of the vegetation should replicate the functions of a natural, unaltered shoreline to the greatest extent feasible.
- D. Maintaining a well-vegetated shoreline with native species is preferred over clearing vegetation to create views or provide lawns. Limited and selective clearing for views and lawns, or for safety, may be allowed when slope stability and ecological functions are not compromised, but landowners should not assume that an unobstructed view of the water is guaranteed. Trimming and pruning are preferred over removal of native vegetation. Property owners should be encouraged to avoid or minimize the use of fertilizers, herbicides and pesticides.
- E. Property owners should be encouraged to preserve and enhance woody vegetation and native groundcovers to stabilize soils and provide habitat. Maintaining native plant communities is preferred over non-native ornamental plantings because of their ecological value.
- F. Develop educational materials and establish a public outreach program to educate shoreline landowners and citizens about the importance of protecting and enhancing vegetative buffers along the shoreline.

## **2.19 View Protection Policies**

- A. Preserve views and vistas to and from the water, by public and private entities, to ensure that the public may continue to enjoy the physical and aesthetic qualities of the shoreline, including views of

the water and views of shoreline areas from the water and the iconic views of the State Capitol and Olympic Mountains.

- B. Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side of the subject property, and views over and through the development from the water.

#### **2.20 Water Quality Policies**

- A. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid impacts to water quality.
- B. Stormwater management facilities for new uses and development should be designed, constructed, and maintained in accordance with the current Olympia Drainage Design and Erosion Control Manual of Olympia. To the extent feasible, low impact development best management practices should be incorporated into every project along the shoreline.
- C. To reduce impacts to water quality, the use of chemical fertilizers, pesticides or other similar chemical treatments should be avoided. Landscaping should be designed to avoid or minimize the use of such products. Maintenance activities should use integrated pest management best practices. Pesticide free areas should be encouraged.
- D. Uses and activities that pose a risk of contamination to ground or surface waters should be prohibited.

#### **2.21 Agriculture Policies**

- A. Recognize existing agricultural uses within the City and allow them to continue operating.
- B. New agricultural uses should be prohibited.

#### **2.22 Aquaculture Policies**

- A. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and microalgae, or significantly conflict with navigation and other water-dependent uses.
- B. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

#### **2.23 Boating Facilities Policies**

- A. Boating facilities, such as marinas and launch ramps, are water-dependent uses and should be given priority for shoreline location.
- B. Boating facilities and their accessory uses should be located, designed, constructed and maintained to achieve the following:
  - 1. Protect shoreline ecological functions and system-wide processes. When impacts cannot be avoided, mitigate to assure no net loss to shoreline ecological functions;
  - 2. Maintain use of navigable waters, public access areas, and recreational opportunities, including overwater facilities;
  - 3. Minimize adverse impacts to adjacent land uses such as noise, light and glare, aesthetics, and public visual access; and

4. Minimize adverse impacts to other water-dependent uses.
- C. Development of new boating facilities should be coordinated with public access and recreation plans and should be collocated with Port or other compatible water-dependent uses where feasible. Affected parties and potential partners should be included in the planning process.
- D. Boating facilities should provide physical and visual public shoreline access and provide for multiple uses including water-related uses, to the extent compatible with shoreline ecological functions and processes.
- E. Upland boat storage is preferred over new in-water moorage.
- F. New covered moorage should be prohibited.
- G. Pilings treated with creosote or other similarly toxic materials should be replaced with steel or concrete pilings to minimize adverse impacts to water quality. Unused or derelict pilings should be removed.

#### **2.24 Commercial Policies**

- A. Give preference to water-dependent commercial uses, then to water-related, and then water-enjoyment commercial uses in shoreline jurisdiction. Non-water-oriented commercial uses should require a conditional use permit if located within 100 feet of the water.
- B. The preferred location for non-water-oriented commercial uses is in commercial areas no closer than 30 feet from the shoreline.
- C. Coordinate planning efforts between the City and the Port to promote economic development in downtown Olympia.
- D. Commercial development should be located, designed, and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.
- E. Commercial development should provide public access to shoreline beaches, docks, walkways, or viewing areas unless such improvements are demonstrated to be incompatible due to reasons of safety, security, or impact to the shoreline environment.
- F. Commercial development should be designed to be visually compatible with adjacent and upland properties and so that the height, bulk, and scale do not impair views.
- G. Commercial development should implement low impact development techniques to the maximum extent feasible.

#### **2.25 Industrial Policies**

- A. Give preference to water-dependent industrial uses first, then to water-related industrial uses over non-water-oriented industrial uses.
- B. Non-water oriented industrial uses should be prohibited within the shoreline jurisdiction.
- C. Coordinate planning efforts between the City and the Port to ensure that there is adequate land reserved for water-dependent industrial uses, to promote economic development, and to minimize impacts upon adjacent land uses.
- D. Locate water-dependent or water-related industrial marine uses in areas already established or zoned for industrial use.

- E. Industrial use and development should be located, designed, and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.
- F. Transportation and utility corridors serving industrial uses should be located away from the water's edge to minimize ecological impacts and reduce the need for waterfront signs and other infrastructure.
- G. Industrial uses and related development projects are encouraged to locate where environmental cleanup can be accomplished.
- H. Encourage the cooperative use of docking, parking, cargo handling and storage facilities on industrial properties.
- I. Design port facilities to permit viewing of harbor areas from viewpoints, waterfront restaurants, and similar public facilities which would not interfere with Port operations or endanger public health or safety.

#### **2.26 Recreation Policies**

- A. Public recreation is a preferred use of the shoreline. Recreational uses and developments that facilitate the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the State, and to view the water and shoreline are preferred. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment for a substantial number of people.
- B. Water-oriented recreational uses, such as boating, swimming beaches, and wildlife viewing, should have priority over non-water oriented recreation uses, such as sports fields. A variety of compatible recreation experiences and activities should be encouraged to satisfy diverse recreational needs.
- C. Recreational developments and plans should promote the conservation and restoration of the shoreline's natural character, ecological functions, and processes.
- D. Plan, design, and implement shoreline recreational development consistent with the growth projections, level-of-service standards, and goals established in Olympia's Comprehensive Plan and Parks, Arts and Recreation Plan.
- E. Hiking paths, sidewalks, and bicycle paths in proximity to or providing access to the shoreline are encouraged.
- F. Recreation facilities should be integrated and linked with linear systems, such as hiking paths, sidewalks, bicycle paths, easements, and/or scenic drives.
- G. Recreation facilities should incorporate public education and interpretive signs regarding shoreline ecological functions and processes, historic and cultural heritage.
- H. Recreation facilities should be designed to preserve, enhance, or create scenic views and vistas.
- I. Commercial recreation facilities should be consistent with the provisions for commercial development (see commercial policies above).

#### **2.27 Residential Policies**

- A. All residential developments should be located, designed, and properly managed to avoid damage to the shoreline environment and avoid cumulative impacts associated with shoreline armoring, overwater structures, stormwater runoff, septic systems, vegetation clearing, and introduction of pollutants.

- B. The overall density of development, lot coverage, setbacks, and height of structures should be appropriate to the physical capabilities of the site.
- C. Residential development, including the division of land and the construction of residential units, should be designed and located so that shoreline armoring and flood hazard measures will not be necessary to protect land or structures.
- D. Dwelling units and accessory structures should be clustered to preserve natural features and minimize overall disturbance of the site.
- E. New residential development should provide opportunities for public access.
- F. New residential development should minimize impacts upon views to adjacent residential areas, in keeping with the Shoreline Management Act.
- G. 'Live-aboard' vessels associated with marinas may be allowed, but all other overwater residential development including floating homes should be prohibited. **A floating home permitted or legally established prior to January 1, 2011 and floating on water residences legally established prior to July 1, 2014 will be considered conforming uses.**
- H. Whenever possible, non-regulatory methods to protect, enhance and restore shoreline ecological functions should be encouraged for residential development.

**Comment [NL10]:** These changes are **required** in accordance with RCW 90.58.270 (5) and (6).

## **2.28 Transportation Policies**

- A. New roads and railroads, and expansions thereof should not be built within the shoreline jurisdiction. Where this is not feasible, such improvements should be located and designed to have the least possible adverse effect on the shoreline, not result in a net loss of shoreline ecological functions, or adversely impact existing or planned water-oriented uses, public access, and habitat restoration/enhancement projects.
- B. Maintenance and repair of existing roads and railroads should avoid adverse impacts on adjacent shorelines and waters
- C. Transportation facilities should be designed and located to minimize the need for the following:
  1. Structural shoreline protection measures;
  2. Modifications to natural drainage systems; and
  3. Waterway crossings.
- D. Planning for transportation and circulation corridors should consider location of public access facilities, and be designed to promote safe and convenient access to those facilities.
- E. Pedestrian trails and bicycle paths are encouraged where they are compatible with the natural character, resources, and ecology of the shoreline.
- F. Piers and bridges for roads, pedestrian trails, bicycle paths, and railroads are preferred over the use of fill in upland and aquatic areas.
- G. When transportation corridors are necessary, joint use corridors are preferred and encouraged for roads, utilities, and all forms of transportation/circulation.

## **2.29 Utility Policies**

- A. Utility facilities should be designed, located and maintained to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and

planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

- B. Expansion of existing sewage treatment, water reclamation, substations, and power plants should be compatible with recreational, residential, or other public uses of the water and shorelands.
- C. Where water crossings are unavoidable, they should be located where they will have the least adverse ecological impact.
- D. New utilities should use existing transportation and utility sites, rights-of-way and corridors, rather than creating new corridors.
- E. Utilities should be located and designed to avoid impacts to public recreation and public access areas, as well as significant historic, archaeological, cultural, scientific or educational resources.
- F. Encourage the use of utility rights-of-way for public access to and along shorelines.
- G. Design and install utilities in such a way as to avoid impacts to scenic views and aesthetic qualities of the shoreline area.

### **2.30 Shoreline Modification Policies**

- A. Locate and design all new development in a manner that prevents or minimizes the need for shoreline modifications.
- B. Regulate shoreline modifications to assure that individually and cumulatively, the modifications do not result in a net loss of shoreline ecological functions.
- C. Give preference to those types of shoreline modifications that have a lesser impact on ecological functions.
- D. Require mitigation of impacts resulting from shoreline modifications.
- E. Plan for the enhancement of impaired ecological functions while accommodating permitted uses. Incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the placement and design of shoreline modifications. To avoid and reduce ecological impacts, use mitigation sequencing set forth in WAC 173-26-201(2)(e) and Section 3.21 of the SMP.

**F. Give preference to nonstructural flood hazard reduction measures over structural measures, where feasible.**

### **2.31 Dredging Policies**

- A. Design and locate new development to minimize the need for dredging.
- B. Allow dredging for water-dependent uses and/or essential public facilities only when necessary and when significant ecological impacts are minimized and appropriate mitigation is provided.
- C. Allow dredging in locations where a comprehensive management plan has been evaluated and authorized by local and state governmental entities.
- D. Plan and conduct dredging to minimize interference with navigation and adverse impacts to other shoreline uses and properties.
- E. Allow maintenance dredging of established navigation channels and basins.
- F. Conduct dredging and disposal in a manner to minimize damage to natural systems, including the area to be dredged and the area where dredged materials will be deposited. Disposal of dredge spoils on land away from the shoreline is preferred over open water disposal.

**Comment [NL11]:** This change/addition is **required** for consistency with WAC 173-26-221 (3)(B)(I). See also required change LL – Chapter 3.57 Shoreline Modifications – General Provisions.

- G. Re-use of dredge spoils is encouraged for beneficial uses such as restoration and enhancement.
- H. Dredging and dredge disposal should not occur where they would interfere with existing or potential ecological restoration activities.
- I. Allow dredging for ecological restoration or enhancement projects, beach nourishment, public access or public recreation provided it is consistent with the policies and regulations of the Master Program.

**2.32 Fill Policies**

- A. Fill should be located, designed, and constructed to protect shoreline ecological functions and system-wide processes. The quantity and extent of fill should be the minimum necessary to accommodate a permitted shoreline use or development.
- B. Fill landward of the Ordinary High Water Mark should be permitted when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.
- C. Fill should be allowed to accommodate berms or other structures to prevent flooding caused by sea level rise, **when consistent with the flood hazard reduction provisions in this Shoreline Program**. Any such fill should include mitigation assuring no net loss of ecological functions and system-wide processes.
- D. Fill for the maintenance, restoration, or enhancement of beaches or mitigation projects should be permitted.
- E. Fill water-ward of the Ordinary High Water Mark should be permitted only to accommodate water-dependent uses, public access, cleanup of contaminated sites, the disposal of dredge materials associated with a permitted dredging activity, or other water-dependent uses that are consistent with the goals and policies of Olympia’s Shoreline Program.
- F. Fill for the purpose of creating new uplands should be prohibited unless it is part of an **approved authorized** restoration activity.
- G. Fill should not adversely impact navigation.
- H. Fill should not be allowed where structural shoreline stabilization would be required to maintain the materials placed.

**Comment [NL12]:** This change is **required** in accordance with WAC 173-26-221 (3)(c)(ii), which outlines the criteria for new structural flood hazard reduction measures in shoreline jurisdiction. A flood berm would be considered a structural flood hazard reduction measure; reference to these criteria in this section makes clear the additional conditions that would apply to any such proposal (see also WAC 173-26-191 (2)(a)(ii)(A) and WAC 173-26-221 (3)(b)(i)).

**Comment [NL13]:** The first change is **recommended** to correct a typographical error. See also required change E – Chapter 2.32 (C) – Fill Policies.

**Comment [NL14]:** The second change is **recommended** for administrative clarity at the request of City staff; “approved” may suggest the activity must be approved by a specific plan or document. “Authorized” is more all-encompassing.

**2.33 Moorage Policies**

- A. New moorage should be permitted only when it can be demonstrated that there is a specific need to support a water-dependent or public access use.
- B. Moorage associated with a single-family residence is considered a water-dependent use provided it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible.
- C. Allow shared moorage for multi-family uses or as part of a mixed use development when public access is provided.
- D. Give preference to buoys over piers, docks, and floats; however, discourage the placement of moorage buoys where sufficient dock facilities exist.
- E. Give preference to shared moorage facilities over single-user moorage where feasible. New subdivisions of more than two lots and new multi-family development of more than two dwelling units should provide shared moorage.

- F. Moorage facilities should be sited and designed to avoid adversely impacting shoreline ecological functions and processes, and should mitigate for unavoidable impacts to ecological functions.
- G. Moorage facilities should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights including but not limited to boating, swimming, and fishing.
- H. Encourage the cooperative use of docking facilities in industrial areas instead of new facilities.
- I. Moorage facilities should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of piers, docks and floats should be no greater than required for safety and practicality for the primary use.
- J. Encourage design elements that increase light penetration to the water below existing or new moorage facilities, such as increasing the structure's height, modifying orientation and size, and use of grating as a surface material. No new over-water ~~coverage~~ covered moorage or boathouses should be allowed.
- K. Moorage facilities should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

**Comment [NL15]:** This change is recommended to correct a typo.

### **2.34 Restoration and Enhancement Policies**

- A. Olympia recognizes the importance of restoration of shoreline ecological functions and processes and encourages cooperative restoration efforts and programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and processes.
- B. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted towards meeting the needs of sensitive and/or locally important plant, fish and wildlife species as well as the biologic recovery goals for State and federally listed species and populations.
- C. Coordinate restoration and enhancement with other natural resource management efforts and plans.
- D. Consider restoration actions outside of the shoreline jurisdiction that have a system-wide benefit.
- E. When prioritizing restoration actions, the City will give highest priority to measures that have the greatest chance of re-establishing shoreline ecological functions and processes.
- F. Incorporate restoration and enhancement measures into the design and construction of new uses and development, public infrastructure (e.g., roads, utilities), and public recreation facilities.
- G. Shoreline restoration and enhancement should be considered as an alternative to structural stabilization and protection measures where feasible.
- H. All shoreline restoration and enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
- I. Design, construct, and maintain restoration and enhancement projects in keeping with restoration priorities and other policies and regulations set forth in Olympia's Shoreline Program.
- J. Design restoration and enhancement projects to minimize maintenance over time.
- K. Shoreline restoration and enhancement should not extend water-ward more than necessary to achieve the intended results.

- L. ~~No~~ ~~p~~Permanent in-stream structures should be ~~permitted prohibited within streams~~ except for restoration and enhancement structures, and ~~road transportation~~ and utility crossings as described elsewhere in this Program. ~~All such~~ In-stream structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitat and species.

**Comment [NL16]:** These changes are **recommended** for clarity, readability and consistency. See also required change H – Chapter 3.3 (C) – Interpretation and Definitions.

**M. Restoration and enhancement projects may include shoreline modification actions provided the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.**

**Comment [NL17]:** This change is **required** in accordance with WAC 173-26-231 (3)(g).

### **2.35 Shoreline Stabilization Policies**

- A. Preserve remaining unarmored shorelines and limit the creation, expansion and reconstruction of bulkheads and other forms of shoreline armoring.
- B. New development requiring structural shoreline armoring should not be allowed. Shoreline use and development should be located and designed in a manner so that structural stabilization measures are not likely to become necessary in the future.
- C. Structural shoreline armoring should only be permitted when there are no feasible alternatives, and when it can be demonstrated that it can be located, designed, and maintained in a manner that minimizes adverse impacts on shoreline ecology and system-wide processes, including effects on the project site, adjacent properties, and sediment transport.
- D. The reconstruction or expansion of existing hard armoring should only be permitted where necessary to protect an existing primary structure or legally existing shoreline use that is in danger of loss or substantial damage, and where mitigation of impacts is sufficient to assure no net loss of shoreline ecological functions and processes.
- E. Encourage the removal of bulkheads and other hard armoring and restore the shoreline to a more natural condition. Where stabilization is necessary for the protection of private or public property, alternative measures that are less harmful to shoreline ecological functions should be employed.
- F. Nonstructural stabilization measures, including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff, and other measures, are preferred over structural shoreline armoring.
- G. Failing, harmful, unnecessary, or ineffective structures should be removed. Shoreline ecological functions and processes should be restored using non-structural methods.
- H. Shoreline stabilization and shoreline armoring for the purpose of leveling or extending property, or creating or preserving residential lawns, yards, or landscaping should not be allowed.
- I. Shoreline stabilization measures, individually or cumulatively, should not result in a net loss of shoreline ecological functions or system-wide processes. Preference should be given to structural shoreline stabilization measures that have a lesser impact on ecological functions, and mitigation of identified impacts resulting from said modifications should be required.
- J. The City should promote non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources. Examples of such methods include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, land acquisition and restoration, and other incentive programs.

**Comment [NL18]:** This change is **recommended** because the sentence includes reference to reconstruction of existing hard armoring. WAC 173-26-231 (3)(a)(iii)(C) allows replacement stabilization structures to protect principal uses in addition to just structures. Furthermore, the overall shoreline modification principles in WAC 173-26-231 (2)(a) allow shoreline modifications when necessary to support or protect legally existing shoreline uses.

- K. Jetties, breakwaters, or groin systems should not be permitted unless no other practical alternative exists. If allowed, they should be located, designed, and maintained to avoid impacts to shoreline ecological functions and system-wide processes.

## Section 3

## Regulations

[This Section of the Olympia Shoreline Master Program amends and is to be adopted as part of the Olympia Municipal Code, including a new Chapter 18.34.]

### Chapter 18.34 Shoreline Master Program Regulations

#### **3.1 18.34.100 - Applicability**

- A. All proposed uses and development occurring within Olympia's shoreline jurisdiction shall comply with Olympia's Shoreline Program and RCW 90.58, Shoreline Management Act (Act). The Shoreline Program applies to all uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.
- B. Olympia's Shoreline Program shall apply to all of the lands and waters in the City of Olympia that fall under the jurisdiction of the Act (see OMC 18.34.300 - Shoreline Jurisdiction).
- C. The Shoreline Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.
- D. Federal agency actions on shorelines of the state are required to be consistent with this Master Program and the Act, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and §173-27-060(1) WAC, Applicability of RCW 90.58, Shoreline Management Act, to federal lands and agencies).
- E. The permit requirements established under the Shoreline Program apply to all nonfederal activities; and to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right of the federal government.

#### **3.2 18.34.110 - Relationship to Other Plans and Regulations**

- A. Uses, developments and activities regulated by Olympia's Shoreline Program may also be subject to the provisions of the City of Olympia Comprehensive Plan, the Olympia Municipal Code (OMC), the Olympia Engineering Design and Development Standards, the Washington State Environmental Policy Act (SEPA, RCW 43.21C and WAC 197-11), and various other provisions of local, state and federal law.
- B. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.
- C. In the event Olympia's Shoreline Program conflicts with other applicable City policies or regulations, all regulations shall apply and unless otherwise stated, the **more** provisions most protective of the resource shall prevail.
- D. Any inconsistencies between a Shoreline Program and the Shoreline Management Act must be resolved in accordance with the Act.

**Comment [NL19]:** This change is **recommended** to correct a typo.

#### **3.3 18.34.120 - Interpretation and Definitions**

- A. As provided for in RCW 90.58.900, the Act is exempt from the rule of strict construction. The Act and all aspects of Olympia's Shoreline Program shall therefore be liberally construed to give full

effect to the purposes, goals, objectives, and policies for which the Act and Olympia’s Shoreline Program were enacted and adopted.

B. For purposes of this Chapter, the City hereby adopts by reference the definitions of the following terms as set forth in the Revised Code of Washington 90.58.030 and the Washington Administrative Code 173-27-030 and 173-26-020:

- Agricultural activities,
- Agricultural land,
- Aquaculture,
- Average grade level,
- Development,
- Ecological functions or shoreline functions,
- Extreme low tide,
- Feasible,
- Fill,
- ~~Floating home,~~
- Flood plain,
- Geotechnical report or geotechnical analysis,
- Guidelines,
- Marine,
- Nonwater-oriented uses,
- Ordinary High Water Mark (OHWM),
- Priority habitat,
- Priority species,
- Restore, restoration or ecological restoration,
- Shoreline modification,
- Shorelines,
- Shorelines of statewide significance,
- Shorelines of the state,
- Structure
- Substantial development,
- Substantially degrade,
- Water-dependent use,
- Water-enjoyment use,
- Water-oriented use,
- Water-related use, and
- Wetlands.

C. For the purposes of this Chapter, the terms defined below shall have the meaning ascribed to them below. Terms not defined in this Chapter nor listed in subsection B above shall be interpreted as set forth in WACs 173-18-030, 173-20-030 and 173-22-030 or OMC 18.02. When the definitions in this Chapter conflict with the definitions set forth in OMC 18.02, the definitions herein shall govern for purposes of this Chapter.

**Access, direct:** Physical access that is convenient, of relatively short distance, and does not require extraordinary physical dexterity.

**Comment [NL20]:** These changes are **required** in accordance with WAC 173-26-191 (2)(a)(ii)(A).  
  
With regard to the first change, a number of the listed definitions are not found in either RCW 90.58.030 or WAC 173-27-030 but are found in WAC 173-26-020. The second change (strike through) deletes a term that is not defined in any of the three cited sources. This term will be defined in subsection C of this chapter; see required change H below, Chapter 3.3 (C) Interpretation and Definitions.

**Comment [NL21]:** These changes are **required** by WA ST DOE Director required in accordance with WAC 173-26-191 (2)(a)(ii)(A), unless otherwise noted. The preceding subsection in this chapter (subsection B, chapter 3.3) lists terms adopted by reference from RCW 90.58.030, and WAC 173-27-030 and 173-26-020 (see required change G above). Where terms in this subsection (C) were also listed in subsection B, they have been stricken from subsection C to avoid potential conflicts between definitions. Where terms listed in subsection B were not from one of the sources cited in that subsection, they have been inserted here (subsection C). Additional terms used in the SMP that were not defined have also been inserted in subsection C.

**Formatted:** Highlight  
**Formatted:** Highlight  
**Formatted:** Highlight

**Access, physical:** The right and facilities needed to enter upon shoreline areas, such as that access provided by a trail, float, dock, promenade, bridge or boat ramp.

~~Access, public: The opportunity for the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the State, and to view the water and the shoreline from adjacent locations.~~

**Accessory:** Customarily incidental and subordinate.

**Administrator:** That person designated by the City of Olympia to administer the provisions of Olympia's Shoreline Program. References to 'the City' in this Shoreline Program may be construed as referring to the Administrator.

**Alteration:** Any human-induced change in existing conditions ~~or on~~ a shoreline, critical area and/or its buffer. Alterations include, but are not limited to excavation, grading, filling, channelization (straightening, deepening or lining of stream channels except dredging of sediment or debris alone), dredging, clearing vegetation, draining, constructing structures, compaction, or any other activity that changes the character of a site.

**Appurtenance:** A structure or development that is necessarily connected to the use and enjoyment of another structure. Common appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred and fifty cubic yards. For purposes of this chapter appurtenances are limited to upland areas.

**Backshore:** The zone of accretion or erosion lying landward of the Ordinary High Water Mark, wetted by tides during storm events.

**Beach:** The zone along the shoreline where there is continuous movement of sediment both laterally and vertically. This zone extends from the daily low tide mark to where the permanent line of vegetation begins.

**Beach Nourishment:** The process of replenishing a beach by artificial means, for example, by the deposition of sand and gravel; also called beach replenishment or beach feeding.

**Berm:** One or several linear deposits of sand and gravel generally paralleling the shore at or landward of the Ordinary High Water Mark.

**Boat ramp:** A slab, plank, rail, or graded slope used for launching boats by means of a trailer, hand, or mechanical device.

**Boat house:** A structure designed for storage of vessels located over water or in upland areas.

**Boating facilities:** Marinas located both landward and water-ward of the Ordinary High Water Mark (dry storage and wet-moorage types), boat ramps, covered and uncovered moorage, and marine travel lifts. Boating facilities do not include docks serving four or fewer single-family residences.

**Breakwater:** An offshore structure generally built parallel to the shore that may or may not be connected to the land. Breakwaters may be fixed (e.g., a rubble mound or rigid wall), open-pile, or floating. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect shorelines from erosion caused by wave action.

**Bulkhead:** A wall usually constructed parallel to the shoreline or at the Ordinary High Water Mark for the primary purpose of containing and preventing the loss of soil or structure caused by erosion or wave action. Bulkheads are typically constructed of rock, poured-in-place concrete, steel or

**Comment [NL22]:** This first change is **recommended** because public access is already defined in this section (page 32).

**Comment [NL23]:** This change is **recommended** for administrative clarity at the request of City staff.

**Comment [NL24]:** This change is **recommended** to correct a typo and for clarity; shoreline buffers have not been established by name in the SMP. This change would align this definition with the definition of enhancement in this subsection.

aluminum sheet piling, wood, or wood and structural steel combinations. Structural foundation walls are not bulkheads unless located at the Ordinary High Water Mark.

**Compensation Project: Projects that compensate for unavoidable impacts by replacing or providing substitute resources environments.**

**Conditional Use:** A use, development, or substantial development which is classified as a shoreline conditional use or not otherwise classified in chapter. Shoreline conditional uses are not synonymous with zoning conditional uses.

**Covered Moorage:** Boat moorage, with or without walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the water body. Overwater boat houses are a type of covered moorage.

**Critical Habitat:** Habitat areas within which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified herein with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or WAC 232-12-014; in the Priority Habitat and Species (PHS) program by the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

**Critical Saltwater Habitat:** All kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

**Cumulative impacts or cumulative effects:** The impact on the environment **or other shoreline functions or uses** which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a long period of time. See WAC 173-26-186(8)(d).

**Dike or Levee:** A natural or man-made embankment, including any associated revetments, to prevent flooding by a stream or other water body.

**Dock:** A structure built from the shore extending out over the water to provide moorage for commercial or private recreation vessels that does not include above water storage. A dock may be built either on a fixed platform or float on the water.

**Dredging:** The removal, displacement, or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or wetlands; maintenance dredging and/or support activities are included in this definition.

**Ecologically Intact Shorelines:** Those shoreline areas that retain the majority of their natural shoreline functions and values, as evidenced by vegetation and shoreline configuration. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

**Enhancement:** Actions performed within an existing degraded shoreline, critical area and/or buffer to intentionally increase or augment one or more functions and values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing invasive plant or animal species.

**Comment [NL25]:** This change (addition) is recommended for administrative clarity at the request of City staff.

**Comment [NL26]:** The changes outlined below are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), unless otherwise noted. The preceding subsection in this chapter (subsection B, chapter 3.3) lists terms adopted by reference from RCW 90.58.030, and WAC 173-27-030 and 173-26-020 (see required change G above). Where terms in this subsection (C) were also listed in subsection B, they have been stricken from subsection C to avoid potential conflicts between definitions. Where terms listed in subsection B were not from one of the sources cited in that subsection, they have been inserted here (subsection C). Additional terms used in the SMP that were not defined have also been inserted in subsection C.

The change to the definition of cumulative impacts is also necessary to comply with WAC 173-26-201 (3)(d)(iii): "local government shall consider and address cumulative impacts on other functions and uses of the shoreline that are consistent with the Act.. For example, a cumulative impact of allowing development of docks or piers could be interference with navigation on a water body".

**Erosion:** A process whereby wind, rain, water and other natural agents mobilize, and transport, and deposit soil particles.

**Fair market value:** The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

~~Feasible means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:~~

- ~~1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;~~
- ~~2. The action provides a reasonable likelihood of achieving its intended purpose; and~~
- ~~3. The action does not physically preclude achieving the project's primary intended legal use.~~

~~In cases where the SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.~~

~~In determining an action's infeasibility, the decision maker may weigh the action's relative public costs and public benefits, considered in the short and long-term time frames.~~

**Float:** A floating platform similar to a dock that is anchored or attached to pilings and which does not connect to the shore. A float may serve as a temporary moorage facility but is not intended to be used for boat storage. Floats are also used for swimming, diving or water skiing.

**Floating home:** A building on a float used in whole or in part for human habitation as a single-family dwelling ~~that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed, which is not designed for self-propulsion by wind or mechanical means.~~

Floating on-water residence: any floating structure other than a floating home that: (i) is designed or used primarily as a residence on the water and has detachable utilities; and (ii) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Flood hazard reduction measure: flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program (NFIP).

**Floodway:** The "floodway" area that has been established in Federal Emergency Management Agency rate maps not including those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Comment [NL27]:** As outlined above, this change (deletion) is **required** because the same term has already been defined in subsection B of this chapter.

**Comment [NL28]:** This change is **required** for conformance with RCW 90.58.270 (5)(b)(ii).

**Comment [NL29]:** This change/addition is **required** for conformance with RCW 90.58.270 (6)(b).

**Comment [NL30]:** This change/addition is **required** for consistency with WAC 173-26-221 (3)(a).

**Gabions:** Structures composed of masses of rocks, rubble, soil, masonry or similar material held tightly together usually by wire mesh, fabric, or geotextile so as to form layers, blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

~~**Grade Level, Average:** 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. 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. In the case of structures to be built over water, average grade level is the elevation of the adjacent Ordinary High Water Mark. Compare "Grade Plane" in OMC 18.02.~~

**Groin:** Structure built seaward at an angle or perpendicular to the shore for the purpose of building or preserving an accretion beach by trapping littoral sand drift. Generally narrow and of varying lengths, a groin may be built in a series along the shore.

**Harbor Area:** The area of navigable waters determined as provided in Article XV, Section 1 of the State Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

**Height (of Structure):** The difference between the average grade level and the highest point of a structure (not including temporary construction equipment); provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height except where such appurtenances obstruct the view of the shoreline from a substantial number of residences on areas adjoining such shorelines.

**Instream structure:** a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

**Jetty:** A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at harbor entrances or river mouths to prevent accretion of littoral drift in an entrance channel. Jetties also protect channels and inlets from storm waves and cross-currents and to stabilize inlets through barrier beaches. Most jetties are of riprap mound construction.

**Joint-use:** Sharing of facilities such as docks, piers, floats and similar structures by more than one property owner or by a homeowners' association or similar group.

**Limited Master Program Amendment** means a master program amendment that addresses specific procedural and/or substantive topics and which is not intended to meet the complete requirements of a comprehensive master program update.

**Littoral drift:** The mud, sand or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

**Marina:** A facility with water-dependent components for storing, servicing, fueling, berthing, launching and/or securing boats but at minimum including piers, buoys or floats to provide moorage for five (5) or more boats. Marinas may provide eating, sleeping, and retail facilities for owners, crews, and guests. Those aspects located landward of the Ordinary High Water Mark are referred to as "backshore." Backshore marinas include wet-moorage that is dredged out of the land to artificially create a basin and dry moorage with upland storage that uses a hoist, marine travel lift or

**Comment [NL31]:** As outlined above, this change (deletion) is **required** because the same term has already been defined in subsection B of this chapter.

**Comment [NL32]:** This change/addition is **required** for consistency with WAC 173-26-241 (3)(g).

ramp for water access. Marina features located in the intertidal or offshore zone water-ward of the Ordinary High Water Mark and including any breakwaters of open type construction (floating breakwater and/or open pile work) and/or solid type construction (bulkhead and landfill), are referred to as "foreshore."

**May** means the action is acceptable, provided it conforms to the provisions of the SMP.

**Mean Higher High Water (MHHW):** The average of the higher high water height of each tidal day observed over the National Tidal Datum Epoch.

**Mean Lower Low Water (MLLW):** The average of the lower low water height of each tidal day observed over the National Tidal Datum Epoch.

**Mitigation:** Measures prescribed and implemented to avoid, minimize, lessen, or compensate for adverse impacts. Explicit in this definition is the following order of preference:

1. Avoiding an impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
3. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating an impact over time by preservation and maintenance operation during the life of the action;
5. Compensating for an impact by replacing or providing substitute resources or environments; and
6. Monitoring the mitigation and taking remedial action when necessary.

**Mitigation plan:** A plan for alleviating or lessening the adverse impacts of an activity or development, including measures such as avoiding, minimizing or compensating for impacts. Mitigation plans should include a description and evaluation of existing environmental conditions, functions and values; be prepared by a qualified person; list proposed and any alternative mitigation measures including any continuing activities and long-term performance assurance; evaluate the likelihood of success of those measures; and include a proposed means of monitoring and evaluating the success of the mitigation.

**Mixed use:** The use of a parcel or structure with two or more different land uses, such as a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures.

**Moorage Buoy:** A floating device anchored to the bottom of a water body to provide tie-up capabilities for vessels or watercraft.

**Must** means a mandate; the action is required.

**Natural Topography or Existing Topography:** The topography of a lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

**No Net Loss:** The maintenance of the aggregate total of shoreline ecological functions over time. The no net loss standard contained in WAC 173-26-186 requires that impacts of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated such that there are no resulting impacts on ecological functions or processes.

**Overwater:** Location above the surface of the water or water-ward of the Ordinary High Water Mark, including placement of buildings on piling or floats.

**Pier:** A fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water dependent recreation or moorage for vessels or watercraft and does not include above water storage.

**Port:** When capitalized, that government agency known as the Port of Olympia; when lower-case, a center for water-borne commerce and traffic.

**Primary Structure:** The structure on a lot or parcel occupied by the principal use.

**Public Access:** The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations. See WAC 173-26-221(4).

**Public Interest:** The interest shared by the citizens of the state or community-at-large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development. See WAC 173-27-030(14).

**Recreation:** Activities and associated facilities for public or private use for refreshment of body and mind through play, amusement or relaxation including hiking, swimming, canoeing, photography, fishing, boat ramps, playgrounds and parks.

**Restoration plan:** A plan to reestablish or upgrade impaired ecological shoreline processes or functions. Such plan may be to restore a site or shoreline area to a specific condition, or to reestablish functional characteristic and processes which have been lost due to alterations, activities or catastrophic events. Restoration plans should identify the degraded site or area or impaired ecological function(s); establish specific restoration goals and priorities; describe the timing, elements, benchmarks, and other details of proposed restoration activities; include mechanisms or strategies to ensure successful implementation; and provide for monitoring and evaluation of the success of the restoration. Note: the term "Restoration Plan" may also refer to the shoreline Restoration Plan (Appendix A) that is a part Olympia's Shoreline Master Program.

**Revetment:** A sloped wall constructed of riprap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral movement. The slope differentiates it from a bulkhead, which is a vertical structure.

**Riprap:** Dense, hard, angular rock free from cracks or other defects conducive to weathering often used for bulkheads, revetments or similar slope/bank stabilization purposes.

**Sea Level Rise:** An increase in the elevation of marine waters associated with changes in the state of the climate and which can be identified by changes in the mean and/or variability of its properties and that persists for decades or longer.

**Shall** means a mandate; the action must be done.

**Shorelands or Shoreland areas:** Lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark, floodways and contiguous floodplain areas landward two hundred feet from such floodways, and all wetlands and river deltas associated with the streams, lakes, and tidal waters designated by the Department of Ecology as subject to the Shoreline Management Act.

**Shoreline Master Program or Shoreline Program of Olympia:** Specified goals and policies of the Olympia Comprehensive Plan together with specified use regulations and including maps, diagrams,

charts, or other descriptive material and text, a statement of desired goals, and standards adopted in accordance with the policies of the Shoreline Management Act.

**Shoreline Setback:** The horizontal distance required between an upland structure or improvement and the Ordinary High Water Mark; usually measured in feet. (Note that in general setbacks are only applicable to structures having a height greater than 30 inches.) Shoreline setbacks outlined in Table 6.3 include and are not in addition to the VCAs outlined in Table 6.3.

**Shoreline Stabilization or Protection:** Protection of shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion through the use of structural and non-structural methods. See OMC 18.34.860 for examples.

**Should** means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

**Stair Tower:** A structure twelve (12) feet or taller in height typically consisting of one (1) or more flights of stairs, usually with landings to pass from one level to another.

**Submerged Lands:** Areas below the ordinary high-water mark of marine waters, lakes and rivers.

**Tideland:** The land on the shore of marine water bodies between Ordinary High Water Mark (OHWM) or mean higher high tide (MHHW) and the line of extreme low tide which is submerged daily by tides.

**Transportation Facilities:** Streets, railways, bicycle lanes, sidewalks, and shared use paths consistent with the City of Olympia Engineering Design and Development Standards.

**Variance, Shoreline:** A means to grant relief from specific bulk, dimensional or performance standards set forth in this Chapter or related state regulations pursuant to the criteria of WAC 173-27-170; such may not vary a use of a shoreline.

**Vegetation Conservation:** Activities to protect and restore vegetation along or near shorelines that minimize habitat loss and the impact of invasive plants, erosion and flooding, and contribute to ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species.

**Vegetation Conservation Area:** That area within which vegetation conservation actions take place, as required by this Chapter. Vegetation management provisions may be independent of a permit or approval requirement. VCAs outlined in Table 6.3 are measured from the Ordinary High Water Mark and are located within the shoreline setbacks outlined in Table 6.3.

**Visual Access:** Access with improvements that provide a view of the shoreline or water but that do not allow physical access to the shoreline.

~~**Water dependent use:** Defined by WAC 173-26-020; such as but not limited to aquaculture, beach recreation and swimming, boat ramps and launch facilities, ferry terminals, hydroelectric power plants, marinas, marine construction, dismantling and repair, marine and limnological research and education, private and public docks for public moorage, terminal and transfer facilities for marine commerce and industry, water intakes and outfalls, tug and barge facilities, and log booming. (Log booming is placing logs into and taking them out of the water, assembling and disassembling log rafts before or after their movement in water-borne commerce, related handling and sorting activities taking place in the water, and the temporary holding of logs to be taken directly into a~~

**Comment [NL33]:** The change is **recommended** for administrative clarity at the request of City staff; addition of this language will help make clear that the VCA is part of the larger setback and not in addition to the setback.

**Comment [NL34]:** This change is **recommended** for administrative clarity at the request of City staff; addition of this language will help make clear that the VCA is part of the larger setback and not in addition to the setback.

**Comment [NL35]:** As outlined above, these changes (deletions) are **required** because the same terms have already been defined in subsection B of this chapter.

~~processing facility. It does not include the temporary holding of logs to be taken directly into a vessel.)~~

~~**Water enjoyment use:** Defined by WAC 173-26-020; such as but not limited to aquariums with direct water intake, restaurants, museums, shared use paths and trails, boardwalks (over water structures generally parallel to the shoreline for public pedestrian access) and viewing towers.~~

~~**Water oriented use:** A use that is water dependent, water related, or water enjoyment, or a combination of such uses.~~

~~**Water related use:** Defined by WAC 173-26-020; such as but not limited to warehousing and storage facilities, support services for fish hatcheries, seafood processing plants, wood products manufacturing, watercraft and boating supply sales, and log storage. (Log storage is the water storage of logs in rafts or otherwise prepared for shipment in water borne commerce, but not including the temporary holding of logs to be taken directly to or from a vessel or processing facility.)~~

**Weir:** A device placed in a stream or river to raise or divert the water.

#### **3.4 18.34.200 – General Permit and Authorization Provisions**

- A. To be authorized, all uses and development shall be carried out in a manner that is consistent with the Olympia Shoreline Master Program and the policies of the Shoreline Management Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
- B. No use, alteration, or development shall be undertaken within the regulated shorelines by any person without first obtaining permits or authorization.
- C. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City. Applications shall contain information required in WAC 173-27-180.
- D. All permit applications shall be processed in accordance with the rules and procedures set forth in OMC Titles 14, 16, 17 and 18 and WAC 173-27. Where in conflict state law shall prevail.

**E. The City shall document all project review actions in shoreline jurisdiction. The City shall review this documentation and evaluate the cumulative effects of authorized development on shoreline conditions as part of the 8 year periodic review cycle identified in RCW 90.58.080 (4).**

**Comment [NL36]:** This change is **required** in accordance with WAC 173-26-191 (2)(a)(iii)(D).

#### **3.5 18.34.210 - Shoreline Substantial Development Permits**

- A. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempted in accordance with WAC 173-27-040 and RCW 90.58.
- B. In order to be approved, the decision maker shall find that the proposal is consistent with the following criteria:
  - 1. The policies and procedures of RCW 90.58 and provisions of WAC 173-27-150; and
  - 2. All policies and regulations of this Shoreline Program appropriate to the shoreline environment designation and the type of use or development proposed shall be met, except any bulk or dimensional standards that have been modified by approval of a shoreline variance.
- C. Conditions may be attached to the approval of permits as necessary to assure consistency of the project with the Act and this Shoreline Program.

- D. The City is the final authority for a Shoreline Substantial Development Permit, unless an appeal is filed with the State Shorelines Hearings Board.

**3.6 18.34.220 - Exemptions from Shoreline Substantial Development Permit**

- A. Certain developments are exempt from the requirement to obtain a substantial development permit. Such developments still may require a shoreline variance or conditional use permit, and all development within the shoreline is subject to the requirements of this Shoreline Program, regardless of whether a substantial development permit is required. Developments which are exempt from the requirement for a substantial development permit are identified in WAC 173-27-040, RCW 90.58.030(3)(e), RCW 90.58.147 and RCW 90.58.515.
- B. Whenever a development is exempt from the requirement to obtain a shoreline substantial development permit and the development is subject to one or more of the following federal permits, a letter of exemption is required pursuant to WAC 173-27-050:
1. A U.S. Army Corps of Engineers Section 10 Permit under the Rivers and Harbors Act of 1899; or
  2. A Section 404 Permit under the Federal Water Pollution Control act of 1972.

**3.7 18.34.230 - Shoreline Conditional Use Permits**

- A. The purpose of a shoreline conditional use permit is to provide a system which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline conditional use permit, special conditions may be attached by the City or the Department of Ecology to control any undesirable effects of the proposed use and to assure consistency with the Shoreline Management Act and Olympia's Shoreline Program.
- B. Uses which are classified in this Chapter as conditional uses may be authorized provided that the applicant can satisfy the criteria set forth in WAC 173-27-160:
1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Program;
  2. That the proposed use will not interfere with the normal public use of public shorelines;
  3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Program;
  4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  5. That the public interest suffers no substantial detrimental effect.
- C. In the granting of all shoreline conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- D. Other uses which are not specifically classified as a permitted or conditional use in this Shoreline Program may be authorized as a shoreline conditional use provided that the applicant can satisfy the criteria set forth in WAC 173-27-160 (see B above).
- E. Uses that are specifically prohibited by this Chapter shall not be authorized.

### 3.8 18.34.240 - Shoreline Variances

~~18.34.240 G. In the granting of any shoreline variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. In other words, if shoreline variances were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.~~

- A. The purpose of a shoreline variance is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this Chapter where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of Olympia's Shoreline Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.
- B. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances exist and the public interest will suffer no substantial detrimental effect.
- C. Variances from the use regulations of this Shoreline Program are prohibited.
- D. Land shall not be subdivided to create parcels that are buildable only with a shoreline variance or would be considered non-conforming.
- E. Variances for development and/or uses that will be located landward of the Ordinary High Water Mark and/or landward of any associated wetland may be authorized provided the applicant can demonstrate all of the following:
  - 1. That the strict application of the bulk, dimensional or performance standards set forth in this Chapter precludes, or significantly interferes with, reasonable use of the property;
  - 2. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Olympia Shoreline Program, and not, for example, from deed restrictions or the applicant's own actions;
  - 3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Program and will not cause adverse impacts to the shoreline environment;
  - 4. That the variance will not constitute a grant of special privilege not enjoyed by other properties in the area;
  - 5. That the variance request is the minimum necessary to afford relief; and
  - 6. That the public interest will suffer no substantial detrimental effect.
- F. Variance permits for development and/or uses that will be located water-ward of the Ordinary High Water Mark, or within any wetland may be authorized provided the applicant can demonstrate all of the following:
  - 1. That the strict application of the bulk, dimensional or performance standards set forth in this Shoreline Program precludes all reasonable use of the property not otherwise prohibited by this Shoreline Program;
  - 2. That the proposal is consistent with the criteria established under Section E above; and

**Comment [NL37]:** This change is recommended to correct a typo; this provision (G) is also at the end of this subsection and appears to have been mistakenly pasted at the beginning of the subsection as well.

3. That the public rights of navigation and use of the shoreline will not be adversely affected.

G. In the granting of any shoreline variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. In other words, if shoreline **conditional-use variance** permits were granted for other developments in the area where similar circumstances exist, the total of the **conditional-uses variances** shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline **environment**.

### **3.9 18.34.250 - Unclassified Uses**

A. Other uses not specifically classified or set forth in this Chapter, ~~including the expansion or resumption of a nonconforming use,~~ may be authorized as shoreline conditional uses provided the applicant can **demonstrate all of the following:**

- ~~1. The proposal will~~ satisfy the shoreline conditional use permit criteria set forth above.
- ~~2. The use clearly requires a specific site location on the shoreline not provided for under this Chapter; and~~
- ~~3. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this Chapter.~~

B. Uses that are specifically prohibited by this Chapter cannot be authorized by a shoreline conditional use permit.

### **3.10 18.34.260 - Submittal Requirements**

All development proposals under the jurisdiction of this Chapter shall satisfy the application submittal requirements set forth in OMC Titles 16, 17 and 18.

### **3.11 18.34.270 - Inspections**

Pursuant to RCW 90.58.200, the Administrator or authorized representatives may enter land or structures to enforce the provisions of the Shoreline Program. Such entry shall follow the provisions set forth in OMC 8.24.120.

[Note: Consistent with new Chapter 18.34, existing Olympia Municipal Code sections 14.08.030, 14.08.040, 14.08.050 and 14.08.060 are to be renumbered and readopted as OMC sections 18.34.280, 18.34.285, 18.34.290, and 18.34.295, respectively, as shown below.]

### **3.12 18.34.280 Shoreline Substantial Development, Conditional Use and Variance Permits**

~~18.34.280 D. Pursuant to WAC 173-27-110, notice of the application and hearing shall be published in the manner prescribed therein, and mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the subject property, at least fifteen (15) days before the hearing. In addition, the planning department, in its discretion, may give notice in any other manner deemed appropriate.~~

A. Applications for shoreline substantial development permits, conditional use permits, and variance permits are subject to and shall be processed pursuant to WAC Chapter 173-27, as now or hereafter amended, and, as provided below.

B. Applications for shoreline substantial development, conditional use, and variance permits shall be submitted to the planning department on forms supplied by the department. The application shall contain the information required by WAC 173-27-180 and such other information as may be required by the department. The applicant shall pay to the department the application fee

**Comment [NL38]:** This change **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".

**Comment [NL39]:** These changes are **recommended** because this section is about unclassified uses, not nonconforming uses. Ecology recommends the nonconforming use-related provisions be moved to section 3.82; see recommended change QQQ - Chapter 3.82 - Existing Shoreline Uses

**Comment [NL40]:** This change is **recommended** to correct a typo; this provision (D) is included later in this subsection and appears to have mistakenly been pasted at the beginning of the subsection as well.

prescribed by the approved fee schedule. In addition to the application fee, the applicant shall pay fees for environmental analysis, and for other necessary actions or approvals.

- C. Applications for those shoreline **substantial** development permits **or shoreline exemptions** that are exempt from the State Environmental Policy Act and entirely upland of the Ordinary High Water Mark may be decided by the **Site Plan Review Committee Administrator** if a public hearing is not requested by an interested party. The Hearing Examiner shall hold a public hearing and render a decision regarding other applications identified in subsection A of this section. **Consistent with RCW 90.58.140 (10), the Department of Ecology must approve or disapprove shoreline conditional use permits and shoreline variances issued by the City.**
- D. Pursuant to WAC 173-27-110, notice of the application and hearing shall be published in the manner prescribed therein, and mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the subject property, fifteen (15) days before the hearing. In addition, the planning department, in its discretion, may give notice in any other manner deemed appropriate.
- E. The decision of the hearings examiner may be appealed to the Shorelines Hearing Board pursuant to WAC 173-27-220.
- F. Pursuant to WAC 173-27-090 and 173-27-100, the **Administrator** ~~director or the director's designee~~ shall review and decide requests for time extensions and permit revisions. The decision of the ~~Administrator~~ **director** may be appealed pursuant to **OMC 18.34.290 City of Olympia ordinance. If the revision to the original permit involves a conditional use permit or variance, the City shall submit the revision to the Department of Ecology for its final decision.**

**G** When developing and adopting procedures for administrative interpretation of this Master Program, the City shall consult with the Department of Ecology to insure that any formal written interpretations are consistent with the purpose and intent of the Act and the SMP Guidelines.

**3.13 18.34.285 Amendments**

- A. Amendments to the Shoreline Master Program, including changes in mapped environmental designations, shall be processed pursuant to Chapter 173.26 100 WAC as now or hereafter amended, and as provided below. All such amendments are required to be approved by the Department of Ecology.
- B. Applications for proposed amendments shall be submitted to the planning department on forms supplied by the department. The applicant shall pay to the department the application fee and fees for environmental analysis pursuant to RCW 43.21C (SEPA), and for other necessary actions or approvals.
- C. The City Council shall hold the public hearing prescribed by WAC 173-~~19-06226-100~~ (1). At any time, the Council may refer a proposed amendment to the Planning Commission for a recommendation. If the Planning Commission elects to hold a public hearing, a notice of the hearing shall be given in the same manner as the hearing held by the Council.
- D. If the proposed amendment is a map change of environmental designation, regardless of the size or number of parcels affected, or regardless of whether the applicant is a private person or governmental agency, notice of the proposed amendment shall be mailed to all the owners of the property which is proposed for redesignation, as shown by the records of the county assessor. In addition, notice shall be mailed to all the owners of property which lies within three hundred feet of the boundary of the property proposed for designation. **Notices given pursuant to this subsection**

**Comment [NL41]:** These changes are **recommended** for internal consistency and clarity. The definitions in section 3.3 (C) of the SMP name the party responsible for administration of the SMP as the "Administrator". The changes to (C) clarify which types of permit decisions the Administrator is authorized to make consistent with other City administrative codes. See also required change K.- Chapter 3.12 (C) – Shoreline Substantial Development, Conditional Use and Variance Permits.

**Comment [NL42]:** This change is **required** for consistency with RCW 90.58.140 (10). See also recommended change Q – Chapter 3.12 (C) and (F) – Shoreline Substantial Development, Conditional Use and Variance Permits.

**Comment [NL43]:** The changes to (F) clarify that section 3.14 (OMC 18.34.290) contains the process for appeals of administrative decisions under the SMP. Finally, WAC 173-27-100 (6) reiterates that Ecology is the final authority for decisions on shoreline CUPs and variances, which also applies to revisions affecting these types of shoreline permits.

**Comment [NL44]:** This change (addition of G) is **required** for consistency with WAC 173-26-140.

**Comment [NL45]:** This change is **required** for consistency with WAC 173-26-100(1). The cited section (173-19-062) does not exist.

~~shall be mailed at least ten calendar days before the date of the hearing.~~ The applicant shall furnish to the planning department the names and addresses of property owners who are to receive notice.

**Comment [NL46]:** This change is **recommended** because the subject language is repetitive of and potentially in conflict with other City notice procedures. Provision A in this section outlines map changes are processed in the same manner as any other SMP amendment. Provision C in this section outlines the Council (or Planning Commission) will hold a hearing on any proposed amendment. The notice procedures/timelines applicable to the hearing notices would then presumably apply to this situation as well.

### **3.14 18.34.290 Appeals of Administrative Decisions**

- A. Any aggrieved person may appeal an administrative decision made pursuant to the master program by filing a written appeal with the planning department within ~~ten~~ **fourteen calendar** days from the date of decision. The appeal shall be filed on forms prescribed by the department and the appellant shall pay to the department the appeal fee prescribed by the approved fee schedule.
- B. Appeals of administrative decisions shall be decided by the hearings examiner, after public hearing, and shall be subject to the provisions of ~~Chapter OMC 18.75.~~ Notice of the hearing shall be mailed to the appellant and may be mailed to any other person who the planning department believes may be affected by or interested in the appeal. Notice shall be mailed not later than ten days before the hearing.

**Comment [NL47]:** This change is **recommended** for administrative clarity/consistency with other City codes at the request of City staff (OMC 18.75.040).

**Comment [NL48]:** This change is **recommended** for consistency with the reference style used in the rest of the document and to clarify what publication 'Chapter 18.75' refers to.

### **3.15 18.34.295 Fees**

For purposes of this Chapter, the fee schedule in Section 4.40.010 of the Olympia Municipal Code is considered the "approved fee schedule."

### **3.16 18.34.300 - Shoreline Jurisdiction**

- A. The provisions of this Chapter shall apply to all shorelines of the state, all shorelines of statewide significance and shorelands as defined in RCW 90.58.030, within the City of Olympia. These areas are collectively referred to herein as 'shorelines'.
- B. Olympia's "shorelands" include lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark, floodways and contiguous floodplain areas landward 200 feet from such floodways, and all wetlands and river deltas associated with the following bodies of water; ~~but no other~~ **The City has chosen not to regulate** 'optional' shorelands as described in RCW 90.58.030 **through this Shoreline Program**. Within its municipal boundaries, the City of Olympia shall have authority over the shorelines (water areas) and associated shorelands of Budd Inlet, Capitol Lake, Chambers Lake, Grass Lake, Ken Lake, Ward Lake, Black Lake Ditch and Percival Creek, including those waters of Budd Inlet seaward of extreme low tide which are shorelines of statewide significance.

**Comment [NL49]:** This change is **recommended** for clarity.

### **3.17 18.34.310 - Official Shoreline Map**

- A. Shoreline Environment Designations have been established and are delineated on the "City of Olympia Shoreline Map" (Shoreline Map) hereby incorporated by reference. The official copy of this map shall reside with the Washington State Department of Ecology.
- B. The Shoreline Map (Figure 4.1) identifies shoreline environment designations and the approximate extent of shoreline jurisdiction within City boundaries. It does not identify or depict the lateral extent of shoreline jurisdiction or associated wetlands and floodplains. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis **by the project applicant or a qualified professional, as necessary**. The actual extent of shoreline jurisdiction requires a site-specific evaluation to identify the location of the Ordinary High Water Mark (OHWM) and associated wetlands and/or floodplains.
- C. **The shoreline designation boundaries in reaches where parallel designations have been applied are as follows:**

**Comment [NL50]:** This change is **recommended** for administrative clarity at the request of City staff (the location of the OHWM is an element of a complete shoreline permit application per WAC 173-27-180).

1. Budd 3B – Urban Intensity applies to those lands west of the easterly right-of-way edge of West Bay Road within shoreline jurisdiction.
2. Budd 6A – Urban Conservancy applies to the first 100 feet landward of the Ordinary High Water Mark. Urban Intensity applies to the remainder of lands within shoreline jurisdiction (generally the second 100 feet within shoreline jurisdiction).
3. Budd 6B – Urban Conservancy applies to the first 100 feet landward of the Ordinary High Water Mark. Shoreline Residential applies to the remainder of lands within shoreline jurisdiction.

D. Where uncertainty or conflict occurs in the exact location of a shoreline designation boundary, the Administrator shall interpret the boundaries based upon:

1. ~~The coordinates listed in Shoreline Environmental Designations for the City of Olympia;~~
2. 1. Boundaries indicated as approximately following lot, tract, or section lines;
3. 2. Boundaries indicated as approximately following roads or railways shall be construed to follow their centerlines; and
4. 3. Boundaries indicated as approximately parallel to or extensions of features indicated in 1 or 2 ~~or 3~~ above shall be so construed.

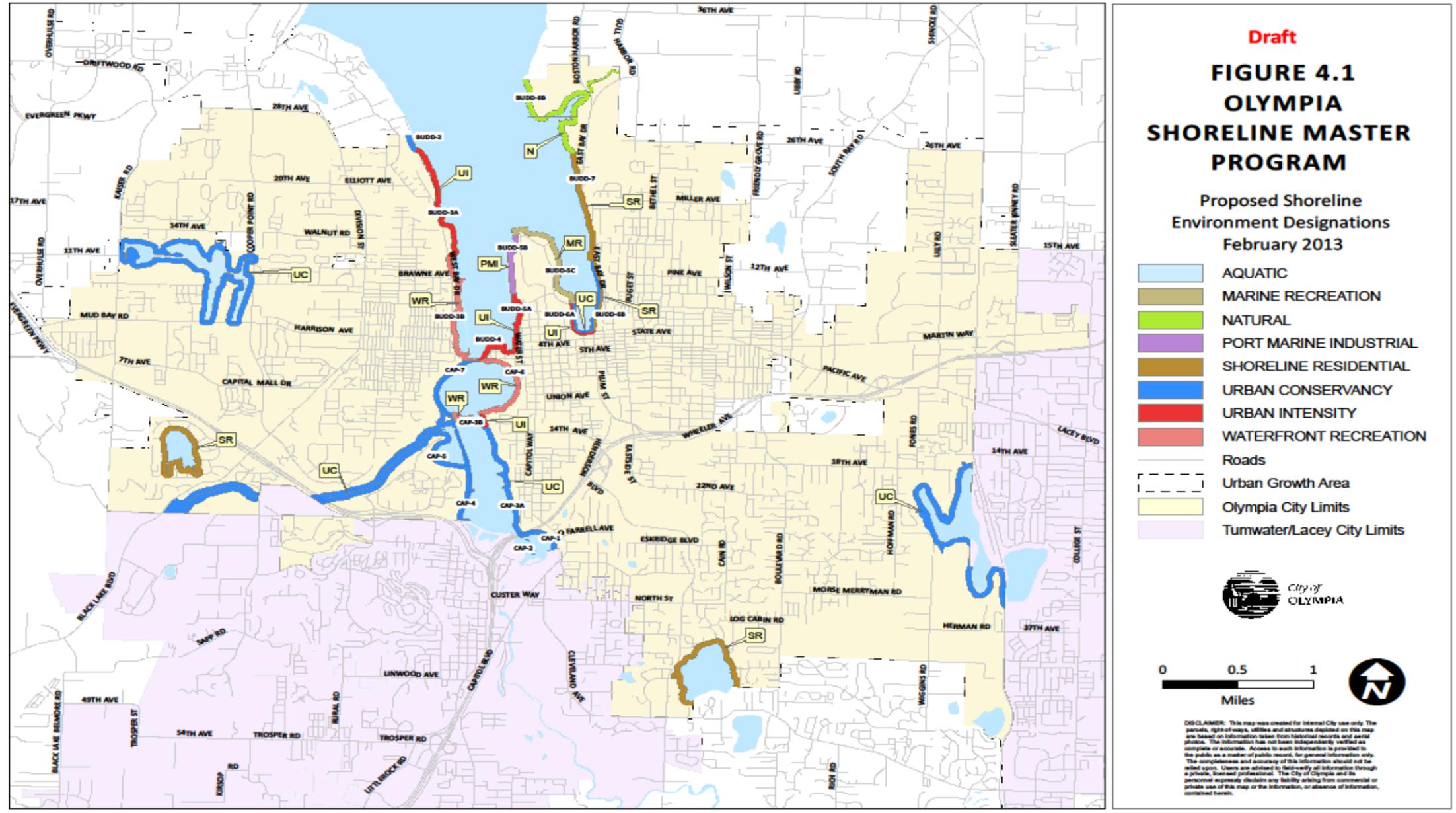
E. In the event of a mapping error, the City will rely on the criteria in the statute and the WAC pertaining to the determination of shorelines.

### **3.18 18.34.320 - Shoreline Environment Designations**

- A. The Olympia Comprehensive Plan sets forth the designation and management policies for the shoreline environment designations established in the Olympia Shoreline Program.
- B. Areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned an *Urban Conservancy* environment designation until the shoreline can be designated through a Shoreline Program amendment.

**Comment [NL51]:** This change is **required** for consistency with WAC 173-26-211(2)(b), which requires the SMP text identify features that define and distinguish environment designations on the ground if such cannot be accurately illustrated on the environment designation map. In this case, the boundaries between parallel designations in reaches Budd-6A, Budd-6B and parts of reach Budd-3B do not follow the interpretation conventions outlined in (renumbered) provision D. The breaks between parallel designations as established by the City Council during deliberations were inserted for clarification in these three reaches.

**Comment [NL52]:** These changes are **recommended** because the coordinates referred to in (C)(1) are no longer accurate: the coordinates were included in the 'Final Proposed SMP Shoreline Environmental Designations for Lacey, Olympia and Tumwater' document prepared by Thurston Regional Planning Council (TRPC) (June 2009). Shoreline reaches and environment designations were revised during the City's subsequent work on the SMP and these coordinates were never updated. See also required change N – Chapter 3.17(C) – Official Shoreline Map.



(Map Figure 4.1 – Change map title – **Draft City of Olympia** Shoreline **Map Master Program Proposed** Shoreline Environment Designations **February 2013** Insert final date)

**Comment [NL53]:** Striking “draft” is recommended for clarity. The change to the title is recommended so it matches that in section 3.17(A). Striking ‘proposed’ is recommended because upon adoption the environment designation will be final. The last change would result in the map date being consistent with the final date of the SMP.

### **3.19 18.34.330 - Shoreline Environment Purposes**

**Aquatic** – The purpose of the *Aquatic* environment is to protect, restore and manage the unique characteristics and resources of the areas water-ward of the Ordinary High Water Mark

**Natural** – The purpose of the *Natural* environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, Olympia will plan for restoration of degraded shorelines within this environment.

**Urban Conservancy** – The purpose of the *Urban Conservancy* environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

**Waterfront Recreation** – The purpose of the *Waterfront Recreation* environment is to provide recreational and public access opportunities and to maintain and restore shoreline ecological functions and preserve open space. This designation is generally intended for appropriate public parks.

**Marine Recreation** – The purpose of the *Marine Recreation* environment is to establish provisions for boating facilities and water-oriented recreational and commercial uses and to restore shoreline ecological functions and preserve open space.

**Shoreline Residential** – The purpose of the *Shoreline Residential* environment is to accommodate residential development and appurtenant structures that are consistent with Olympia’s Shoreline Program. An additional purpose is to provide public access and recreational uses.

**Urban Intensity** – The purpose of the *Urban Intensity* environment is to provide for high-intensity water-oriented commercial, transportation, industrial, recreation, and residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded, and to provide public access and recreational uses oriented toward the waterfront.

**Port Marine Industrial** – The purpose of the *Port Marine Industrial* environment is to allow the continued use and development of high-intensity water-oriented transportation, commercial and industrial uses. This area should support water-oriented marine commerce balanced with the protection of existing ecological functions and restoration of degraded areas.

### **3.20 18.34.400 - General Regulations – Intent**

This section sets forth regulations that apply to all uses and activities, as applicable, in all shoreline environments. These regulations are to be used in conjunction with the OMC 18.34.600, et seq.

### **3.21 18.34.410 - No-Net-Loss and Mitigation**

- A. All shoreline uses and development, including preferred uses and uses that are exempt from shoreline permit requirements, shall be located, designed, constructed, and maintained in a manner that maintains shoreline ecological functions and processes.
- B. Applicants/proponents of new shoreline use and development shall demonstrate that all reasonable efforts have been taken to avoid adverse environmental impacts. Mitigation shall occur in the following order of priority:
  - 1. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action;

2. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or taking affirmative steps to avoid or reduce adverse impacts;
  3. Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment;
  4. Reducing or eliminating the adverse impact over time by preservation and maintenance operating during the life of the action;
  5. Compensating for the adverse impacts by replacing, enhancing, or providing similar substitute resources or environments; and
  6. Monitoring the impact the compensation projects and taking appropriate corrective measures.
- C. In determining appropriate mitigation measures, lower priority measures shall be applied only when higher priority measures are determined to be infeasible or inapplicable.
- D. Mitigation actions shall not have a significant adverse impact on other shoreline ecological functions.
- E. The City may require applicants to prepare special reports as necessary to address the impacts of proposed development on shoreline ecological functions or to demonstrate that avoidance is not feasible.
- F. When mitigation measures are required, all of the following shall apply:
1. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources;
  2. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time;
  3. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory ([TRPC, June 2009](#)), ~~and~~ [Shoreline Analysis and Characterization Report \(ESA Adolfson, December 2008\)](#), Olympia's Shoreline Restoration Plan ([Appendix A to the Master Program](#)) and that of other jurisdictions, and other background studies prepared in support of this Program;
  4. The mitigation plan shall include contingencies should the mitigation fail during the monitoring/maintenance period;
  5. Compensatory mitigation shall be done prior to or at the same time as the impact; and
  6. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values. Mitigation sites shall be monitored for ten (10) years in accordance with the provisions in OMC 18.32.
- G. The applicant may be required to post a financial surety such as an assignment of savings or bond that is 125 percent of the estimated cost of the mitigation to guarantee performance. Estimates shall be prepared in accordance with OMC 18.32. Sureties shall only be released upon acceptance of the mitigation project by the City. If the mitigation project has not performed as prescribed in the mitigation plan, the City shall have the authority to extend the monitoring and surety period, and require additional monitoring reports and maintenance activities beyond the 10-year monitoring period. This requirement applies to all projects where mitigation is used.
- H. Mitigation measures shall occur in the immediate vicinity of the impact. If this is not feasible as determined through the mitigation sequence process (18.34.410 B.), mitigation may occur offsite if

**Comment [NL54]:** These changes are recommended for administrative clarity at the request of City staff.

it provides greater improvement to shoreline ecological functions and values. The City may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved by the Department of Ecology, the Department of Fish and Wildlife, or the Army Corps of Engineers.

I. Type and Location of Mitigation:

1. The Administrator shall give preference to mitigation projects that are located within the City of Olympia. Prior to mitigating for impacts outside City of Olympia jurisdiction, applicants must demonstrate to the Administrator that the preferences herein cannot be met within City boundaries
2. Natural, Shoreline Residential, Urban Conservancy, Waterfront Recreation, and Aquatic Environments: Compensatory mitigation for ecological functions shall first be in-kind and onsite, or second in-kind and within the same reach, sub-basin, or drift cell, except when all of the following apply:
  - a. It is demonstrated to the satisfaction of the Administrator that there are no reasonable onsite or in sub-basin opportunities (e.g. onsite options would require elimination of high functioning upland habitat), or onsite and in sub-basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for impacts. Considerations should include: anticipated marine shoreline/wetland/stream mitigation ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands, or streams when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity); and
  - b. Offsite mitigation has a greater likelihood of providing equal or improved shoreline ecological functions than the impacted shoreline.
3. Urban Intensity, Marine Recreation and Port Marine Industrial Environments:
  - a. The preference for compensatory mitigation is for innovative approaches that would enable the concentration of mitigation into larger habitat sites in areas that will provide greater critical area or shoreline function.
  - b. The Administrator may approve innovative mitigation projects including but not limited to activities such as advance mitigation, fee in-lieu, mitigation banking and preferred environmental alternatives subject to the mitigation sequencing process contained in Section 18.34.410. Innovative mitigation proposals must offer an equivalent or better level of protection of shoreline ecological functions and values than would be provided by a strict application of onsite and in-kind mitigation. The Administrator shall consider the following for approval of an innovative mitigation proposal:
    - 1) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;
    - 2) Consistency with Goals and Objectives of the Shoreline Restoration Plan and the Goals and Objectives of this Program;
    - 3) The applicant demonstrates that long-term management and protection of the habitat area will be provided;

- 4) There is clear potential for success of the proposed mitigation at the proposed mitigation site;
- 5) Restoration of marine shoreline functions or critical areas of a different type is justified based on regional needs or functions and processes;
- 6) Voluntary restoration projects.

J. Fee In-lieu:

1. To aid in the implementation of offsite mitigation, the City may develop a formal program which prioritizes shoreline areas included in the Restoration Plan for use as mitigation and/or allows payment in-lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:
  - a. The identification of sites within the City that are suitable for use as offsite mitigation and are consistent with the Shoreline Restoration Plan. Site suitability shall take into account shoreline ecological functions, potential for degradation, and potential for urban growth and service expansion; and
  - b. The use of fees for mitigation on available sites that have been identified as suitable and prioritized for restoration and/or enhancement
  - c. Any offsite mitigation would have to be consistent with the goals and objectives of the Shoreline Restoration Plan.
2. If a fee in-lieu program is approved by the City then in cases where mitigation pursuant to this section is not possible, or where the maximum possible onsite mitigation will not wholly mitigate for anticipated impacts, or where an alternative location, identified in an adopted restoration plan, would provide greater ecological function, the Administrator may approve a payment of a fee in-lieu of mitigation. The fee shall be reserved for use in high value restoration actions identified through the Shoreline Restoration Plan.

K. Advance Mitigation

1. Advance mitigation is a form of permittee responsible compensatory mitigation constructed in advance of a permitted impact.
2. To aid in the implementation of advance mitigation, the City may develop a formal advance mitigation program. This program shall be developed and approved through a public process and be consistent with state and federal rules as defined in the Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (December 2012). At a minimum, the program should address:
  - a. Credit value of advance mitigation proposals
  - b. Credits can only be used by the same applicant
  - c. Establish performance standards
  - d. Establish baseline conditions
3. Any advance mitigation project shall be consistent with the goals and objectives of the Shoreline Restoration Plan.

L. Effect on Building Setbacks

1. No building shall be rendered nonconforming with respect to building setbacks as a result of shoreline restoration or mitigation conducted in accordance with this SMP.

### 3.22 18.34.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) **and Chapter 16.70 (flood damage prevention), except as modified in (C) below.**
- B. If there are any conflicts or unclear distinctions between this Chapter and Olympia's critical area **or flood damage prevention** regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.

- C. **Exceptions: Regardless of other provisions in Chapter 18.32, to ensure consistency with the Shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:**

1. **In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.**
2. **Stream and Important Riparian Area buffer reductions beyond twenty five percent (25%) (OMC 18.32.435 (H)) within shoreline jurisdiction shall require a shoreline variance.**
3. **In shoreline jurisdiction, OMC 18.32.515 (B) does not apply. Furthermore, OMC 18.32.515 (A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).**
4. **Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525 (K)) and only when no other location is feasible.**
5. **Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525 (M)).**
6. **Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530 (E) and (G)).**
7. **In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535 (F)) and administrative wetland buffer reductions (OMC 18.32.535 (G)) shall not be used together.**
8. **Wetland buffer reductions beyond twenty-five percent (25%) (OMC 18.32.535 (H)) within shoreline jurisdiction shall require a shoreline variance.**
9. **Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).**

**Comment [NL55]:** These changes are **required** for consistency with WAC 173-26-221 (2)(a)(ii).

See also Ecology's correspondence to the City on this topic dated November 29, 2011 and December 28, 2012.

**Comment [NL56]:** Required DOE Director Language

**Comment [NL57]:** These changes are **required** for consistency with WAC 173-26-221 (2)(a), WAC 173-26-221 (2)(b), WAC 173-26-221(2)(c)(i), and WAC 173-26-221(2)(c)(iv).

With regard to wetlands, the Guidelines direct local governments to consult Ecology's technical guidance documents. The wetland delineation manual referenced in the City's critical areas ordinance and specified provisions relating to wetland buffer management are not consistent with Ecology's published technical guidance.

WAC 173-26-191 (2)(iii)(B) calls for Master Programs to include standards for review of variances that conform to WAC 173-27. WAC 173-27-170 outlines that variance permits are to be used to grant relief from specific bulk, dimensional or performance standards in the Master Program. A number of the changes required here are to provisions that have been identified as open-ended (buffer reductions for example) in the city's critical areas ordinance, leaving it unclear as to when a variance would be triggered. Furthermore, open-ended buffer reductions and use allowances may result in a net loss of shoreline ecological functions. Absent documentation to the contrary, Ecology must assume that all administrative reduction and averaging requests will be granted. The potential for these types of reductions and the potential for associated cumulative effects were not addressed in the Cumulative Impacts Assessment for the City's adopted Master Program. Absent any discussion of this topic in the record, changes are required to comply with the no net loss standard in the SMP Guidelines.

The addition of number 11 is **required** in accordance with WAC 173-26-221 (2)(ii)(B).

The addition of number 12 is **required** in accordance with WAC 173-26-221 (3)(c)(i).

See also Ecology's correspondence to the City on this topic dated November 29, 2011 and December 28, 2012.

See also **recommended** change Z – Chapter 3.41, Table 6.3, Setbacks and Incentives.

**Formatted:** Highlight

10. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

11. **New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.**

12. **Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).**

13. **Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.**

**Comment [NL58]:** This addition is recommended because Ecology published updates to the Washington State Wetland Rating Systems in June 2014. The most substantive change affecting local governments is the change to the scale of wetland scores. Ecology required that the updated rating system be used as of January 1, 2015. The City issued a Director's Determination on December 31, 2014 recognizing use of this interim language in the CAO. This change would directly recognize the interim language by adding it to the SMP.

### **3.23 18.34.430 - Archaeological, Historic, and Cultural Resources**

- A. Archaeological sites located both in and outside shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites and Records).
- B. Development or uses that impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit) as well as the requirements of OMC 18.12, Historic Preservation, and the applicable requirements of this Chapter.
- C. Shoreline use and development on sites having archaeological, historic, or cultural resources shall be designed and constructed in a manner that prevents impacts to the resource and provides educational benefits to the public, where appropriate.
- D. Developers and property owners shall immediately stop work and notify the City, the Office of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.
- E. Development that is proposed in areas documented to contain archaeological resources shall have a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes during the development review process.

### **3.24 18.34.440 - Parking**

- A. Parking facilities or lots within the shoreline jurisdiction shall be allowed only to support authorized uses.
- B. Commercial parking facilities or lots as a primary use are prohibited within the shoreline jurisdiction.
- C. Parking facilities or lots shall be located landward of the principal building, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
- D. Parking facilities or lots shall be designed and landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties. Landscaping shall comply with OMC 18.36 and the vegetation conservation standards of OMC 18.34.495.

- E. Parking facilities or lots shall provide safe and convenient pedestrian circulation within the parking area to the building or use it serves, and shall be located as far landward of the Ordinary High Water Mark as feasible.
- F. To the extent feasible, new parking lots shall include the most effective stormwater treatment and 'best management' practices. At minimum, such treatment shall conform to the 'Enhanced Menu' issued by the Washington Department of Ecology's "Runoff Treatment BMPs" of August, 2012.

**3.25 18.34.450 - Public Access**

- A. Public access shall be required for the following types of development, unless waived pursuant to Section C.
  - 1. Residential developments of more than nine residential lots or dwelling units;
  - 2. Commercial or industrial developments; and
  - 3. Shoreline development proposed or funded by a public entity, port districts, state agencies, or public utility districts.
- B. Where a development or use will interfere with an existing public access, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing onsite or nearby public access.
- C. The public access requirement, when related to development not publicly funded, may be waived by the ~~decision-maker~~ Administrator where one or more of the following conditions are present:
  - 1. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
  - 2. Constitutional or other legal limits apply;
  - 3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions such as limiting hours of use; or
  - 4. Adverse impacts to shoreline ecological processes and functions that cannot be mitigated will result; in such cases, offsite and alternative access may be required to mitigate impacts.
- D. Public access provisions shall run with the land and be recorded via a legal instrument such as an easement, or as a dedication on the face of a plat or short plat. Such legal instruments shall be recorded with the Thurston County Auditor prior to issuance of a certificate of occupancy or plat approval, whichever comes first.
- E. Public access sites shall be constructed and available for public use at the time of occupancy of the use or activity or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.
- F. Public access facilities shall be available to the public from dawn to dusk unless specific exceptions are granted through a shoreline substantial development or other permit.
- G. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.
- H. Maintenance of public access facilities on private property shall be the responsibility of the property owner, unless an accepted public or non-profit agency agrees to assume responsibility through a formal agreement recorded with the Thurston County Auditor. Where appropriate, this

**Comment [NL59]:** This change is recommended for clarity and internal consistency.

responsibility may be required of a future homeowners' association, or other entity approved by the City.

- I. Signage indicating the public's right of access and hours of access shall be installed and maintained by the owner, developer or assignee. Such signs shall be posted in conspicuous locations at public access sites.
- J. Public access areas shall be approved by the ~~decision-maker~~ **Administrator** during review of the shoreline permit. If exempt from a shoreline permit, public access areas may be required by the Administrator.

**Comment [NL60]:** This change is recommended for clarity and internal consistency.

### **3.26 18.34.460 – Design of Public Access**

- A. Public access shall be located, designed and maintained in accordance with all of the following:
  - 1. The size and configuration of public access areas shall be at least the minimum necessary based on location, intended use, compatibility with adjacent uses, and proximity to other public access areas.
  - 2. Trails and shared uses paths (including access paths) shall be buffered from sensitive ecological features and provide limited and controlled access to sensitive features and the water's edge where appropriate (for example, when part of an interpretive or educational site). Fences may be used to control damage to vegetation and other sensitive ecological features. If used, fences shall be designed and constructed of materials that complement the setting, as well surrounding features or structures, and allow for wildlife movement.
  - 3. Where feasible, public access shall be located adjacent to other public areas, accesses and connecting trails, with connections to the nearest public street or trail.
  - 4. Where physical access to the water's edge is not feasible, a public viewing area shall be provided.
  - 5. Public access shall be designed to minimize intrusions on privacy and conflicts between users. For example, provide a physical separation between public and private spaces, orient public access away from windows or private outdoor spaces, or provide a visual screen such as a fence or vegetation.
  - 6. Public access shall be designed to provide for the comfort and safety of users. Such spaces shall be visible from the street or adjacent uses, have adequate lighting, and designed to discourage offensive or illegal conduct.
  - 7. Public amenities such as, but not limited to, a covered shelter, benches, or picnic table shall be provided in public access areas.
  - 8. Where feasible, public access areas shall be barrier free for the physically disabled in accordance with the Americans with Disabilities Act (ADA).
- B. The design and layout of public access shall conform to applicable City design standards and procedures, such as the width of public access easements or dedications for trails and share-use paths and trail classification and corresponding corridor widths set forth in the Olympia Engineering Design and Development Standards (EDDS). Any deviation shall be the minimum necessary to achieve the intended purpose of such deviation. It is not the intent of the City to authorize informal trails and the standards contained herein are not intended to address them.

### **3.27 18.34.470 - Scientific and Educational Activities**

- A. Scientific and educational uses and activities are limited to those which will:
  - 1. Not jeopardize existing wildlife populations or organisms;
  - 2. Not permanently alter the character of biological habitats; and
  - 3. Not degrade the character of the shoreline environment in which they are located.
- B. Temporary disruption of biological systems may be permitted when a scientific activity will result in their restoration or improvement, and only when a restoration plan is approved by the City and other agencies with jurisdiction.
- C. Permits for scientific or education activities that will span an extended period of time may be granted; limits on the duration of the use or activity may be established as a condition of approval.
- D. Structures associated with scientific and educational activities such as museums, schools, or visitor centers may be allowed subject to the use provisions of OMC 18.34.620.
- E. Temporary facilities used in conjunction with the scientific or educational project shall be removed at the conclusion of the project.

### **3.28 18.34.480 - Signage Regulations**

Signage shall conform to OMC 18.42, Sign Regulations. In addition, the following provisions shall apply within the shoreline jurisdiction:

- A. All offsite signs, except for directional signs, shall be prohibited;
- B. All signs shall be located and designed to avoid interference with vistas, viewpoints, and visual access to the shoreline;
- C. Signs shall be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses;
- D. Over water signs and signs on floats or pilings, except as needed for navigational purposes, shall be prohibited;
- E. Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shaded and directed so as to minimize, to the extent feasible, light and glare from negatively impacting neighboring properties, streets, public areas or water bodies. Lighted signs shall be designed to reduce glare when viewed from surrounding properties or from the water. Lighting shall not shine directly upon or cast a glare on the water; and
- F. All signs shall be located in such a manner that they minimize interference with public views. Free standing signs which may disrupt views to the water shall be placed on the landward side of development.

### **3.29 18.34.490 - Vegetation Conservation Areas - Intent**

- A. Vegetation conservation includes activities to protect and restore upland vegetation along or near marine or fresh water bodies to minimize habitat loss and the impact of invasive plants, erosion and flooding and contribute to the ecological functions of shoreline areas. The provisions of this section establish vegetation conservation areas, and set forth regulations for the prevention or restriction of native vegetation removal, grading, vegetation restoration, control of invasive weeds and non-native species, and tree maintenance adjacent to the shoreline.

B. However, unless otherwise stated, vegetation conservation does not include those activities expressly authorized by the Washington State Forest Practices Act, but does include conversion to other uses and those other forest practice activities over which the City has authority.

**3.30 18.34.492 – General Vegetation Conservation Regulations**

- A. Vegetation conservation provisions apply to all shoreline developments as required in Table 6.3. All vegetation conservation in these areas shall conform to the regulations and standards below.
- B. Parcels fronting on lakes, marine waters, streams or wetlands shall preserve or provide native vegetation within vegetation conservation areas, also known as VCAs or buffers, upland of and adjacent to the Ordinary High Water Mark ~~developments~~ as required in Table 6.3. **If present on a parcel, note that critical area buffers may be larger than or may encompass VCAs.**
- C. Except as provided herein, applicants for new development, expansion, or redevelopment shall protect and preserve existing native vegetation within the vegetation conservation area.
- D. Mitigation in the form of restoration or creation of vegetation conservation area may be required as a condition of development approval consistent with mitigation sequencing priorities in OMC 18.34.410(B). Further, an applicant may propose such restoration for reductions in required setbacks or for encroachments into required vegetation conservation areas **as provided in OMC 18.34.493 and/or** for water dependent uses as provided in Table 6.3.
- E. Where applicable, nonconforming and water dependent uses that cannot provide a vegetation conservation area due to the nature of the use or activity shall provide comparable mitigation. For example, if it is not feasible to provide vegetation onsite due to constraints such as lot size, topography, or existing site improvements, vegetation may be provided offsite in accordance with the provisions of OMC 18.34.410(H).

**Comment [NL61]:** The first change is recommended to correct what appears to be a typo. The second change is recommended for clarity and specificity.

**Comment [NL62]:** The change (addition) is recommended for clarity and specificity.

**3.31 18.34.493 - Permitted Uses and Activities within Vegetation Conservation Areas**

- A. Subject to other limitations of this Chapter and if also allowed within the applicable shoreline environment designation, the following uses and activities are permitted within vegetation conservation areas without a variance; ~~subject to compliance with the mitigation sequence in OMC 18.34.410(B):~~
  - 1. Transportation facilities and utilities within existing rights-of-way only when it has been determined that alternative upland locations are not feasible;
  - 2. Public access viewpoints, pedestrian access from upland areas to the shoreline, piers, docks, launch ramps, viewing platforms, wildlife viewing blinds and other similar water-oriented uses;
  - 3. Public recreation trails identified in adopted plans and those located on existing road or railroad beds;
  - 4. Educational facilities such as viewing structures and platforms, wildlife viewing blinds and interpretive sites;
  - 5. Equipment necessary for conducting water-dependent uses such as boat travel lifts for boat maintenance and upland storage, loading equipment for transport of logs and natural resource materials. Where logs or natural resource materials are loaded directly from the shoreline to a vessel, impacts to the shoreline shall be minimized by:
    - a. Constructing designated loading areas;
    - b. Maintaining equipment to avoid fuel or oil leaks; and

**Comment [NL63]:** Required verbage struck by DOE Director - *These changes are required in accordance with 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". References to allowed uses and activities within VCAs need to be consistent throughout the document to avoid the potential for conflicts upon implementation.*

**Formatted:** Highlight

**Formatted:** Highlight

**Formatted:** Highlight

**Comment [NL64]:** This change is recommended to clarify that authorized uses and activities within vegetation conservation areas (VCAs) are subject to and must comply with the mitigation sequence in section 3.21 (B) of the SMP, specifically the avoidance and minimization steps. This fact is implied in other sections/provisions of the SMP, however stating it here provides specificity and clarity and addresses concerns expressed during the state public comment period.

**Formatted:** Highlight

**Formatted:** Highlight

- c. Implementing best management practices to reduce erosion and discharge of untreated storm water directly into the water.
- 6. Removal of noxious weeds or hazardous trees;
- 7. Removal and thinning of trees and vegetation on public property to maintain public view corridors identified in Section 18.34.500;
- 8. Improvements that are part of an approved enhancement, restoration, **vegetation management** or mitigation plan; and
- 9. Shoreline stabilization only when it is part of an approved project.
- 10. The following facilities, fixtures and furnishing shall be allowed within the VCA of public parks and water related recreation areas: 1. paved or unpaved trails, bridges and pedestrian access; 2. picnic shelters, tables and pads not greater than 400 square feet in size; 3. seating, benches, drinking fountains, garbage cans and other site furnishing; 4. public art and art installations; 5. signs, environmental interpretive facilities and information kiosks, and interpretive exhibits; 6. wildlife viewing structures; 7. play equipment and other similar passive parks furnishing and fixtures.

**Comment [NL65]:** Vegetation Management plans as described in section 3.34 of the SMP are intended to address clearing, grading and compensatory mitigation in shoreline jurisdiction. This **recommended** change would clearly state that improvements authorized through approval of a vegetation management plan would be allowed within vegetation conservation areas.

**11. Water dependent uses as authorized in OMC 18.34.620 Table 6.3.**

- B. Appurtenant **and accessory** structures other than those described above **or in OMC 18.34.690 (C)** are prohibited within the vegetation conservation area.

**Comment [NL66]:** These changes are **required** in accordance with 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". References to allowed uses and activities within VCAs need to be consistent throughout the document to avoid the potential for conflicts upon implementation.

**3.32 18.34.494 – Alterations to Existing Development**

Alterations to existing development, including accessory structures, decks, patios, sport courts, and walkways shall protect existing native vegetation within the vegetation conservation area. If the minimum vegetation conservation area is not present when a site alteration is proposed, the Administrator may require establishment of such vegetation conservation area where required by Table 6.3 that is necessary to prevent adverse impacts to the shoreline ecological functions that may result from any proposed alterations.

**3.33 18.34.495 - Vegetation Conservation Area Standards**

- A. Speculative clearing, grading, or vegetation removal is prohibited. Clearing, grading and vegetation removal within shoreline setbacks and vegetation conservation areas shall be the minimum necessary for the **intended authorized** use or development.
- B. The minimum width of vegetation conservation areas is set forth in Table 6.23 and measured perpendicular to the Ordinary High Water Mark along the entire shoreline of the property. To account for site conditions and to create a more natural vegetation conservation area, the minimum widths may be reduced by 50% by the Administrator upon finding that the total VCA of the parcel is equivalent to the minimum area that would result from the standard minimum width and such reduction will not result in adverse impacts to the shoreline functions; such reductions also known as 'VCA averaging.' Vegetation conservation areas exceeding minimums may be proposed or required if necessary to ensure no net loss of shoreline ecological functions will result from proposed shoreline development.
- C. In general, protected and restored vegetation conservation areas shall be composed of native vegetation comparable in species density and diversity to an ecologically similar undisturbed area. Such species density and diversity shall be determined by the Administrator based on best available

**Comment [NL67]:** These changes are **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". With regard to the first change, "intended" uses and development could still be considered speculative until they are authorized or approved.

science. Provided, however, that up to 33% (one-third) of the vegetation conservation area may be utilized for authorized uses and activities described in OMC 18.34.493 provided that impervious surfaces shall not exceed 25% of the VCA. In no case shall the width of a required VCA be less than 10 feet. Encroachment of an authorized use or activity shall require an equivalent area elsewhere onsite be set aside as a VCA and shall ~~ensure that the proposed use or activity will~~ not result in a net loss to shoreline ecological functions.

**Comment [NL68]:** This change is recommended at the request of City staff to correct a grammatical issue and for administrative clarity.

D. When restoring or enhancing shoreline vegetation, applicants shall ~~uses~~ native species that are of a similar diversity, density and type commonly found in riparian areas of Thurston County. The vegetation shall be nurtured and maintained to ensure establishment of a healthy and sustainable native plant community over time.

**Comment [NL69]:** This change is recommended to correct a typo.

E. Lawns are prohibited within the vegetation conservation area due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.

F. Trimming of trees and vegetation is allowed within the vegetation conservation area subject to:

1. This provision does not allow clearing of trees or vegetation except as provided below and elsewhere in this Chapter;
2. The limbing or crown-thinning of trees larger than three inches in caliper shall comply with National Arborist pruning standards, unless the tree is a hazard tree as defined in OMC 16.60, Tree Protection and Replacement. No more than 25% of the limbs on any single tree may be removed and no more than 25% of the canopy cover in any single stand of trees may be removed for a single view corridor.
3. Trimming does not directly impact the nearshore functions and values including fish and wildlife habitat;
4. Trimming is not within a critical area of Chapter 18.32 or associated buffer; and
5. Tree topping is prohibited.

G. Vegetation shall be maintained over the life of the use or development.

H. Vegetation conservation areas shall be placed in a separate tract in which development is prohibited; protected by execution of an easement dedicated to a conservation organization or land trust; or similarly protected through a permanent mechanism acceptable to the City.

### **3.34 18.34.496 – Vegetation Management Plan**

A. Clearing and grading within the shoreline jurisdiction is only permitted upon approval by the Administrator of a vegetation management plan prepared by the applicant. If mitigation measures are required as outlined in OMC 18.34.410 F, the vegetation management plan may be combined with the mitigation plan, and must be prepared by a qualified professional. The vegetation management plan shall include:

**Comment [NL70]:** This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A). Section 3.34 (E) outlines that required vegetation installation under vegetation management plans shall conform to the standards in 18.34.140 F and G (mitigation measures and performance guarantees). Section 3.3 (C) outlines that mitigation plans are to be prepared by "a qualified person". The applicant may not be qualified to adequately or accurately evaluate ecological functions and no net loss, etc. These considerations will be especially important when considering compensatory mitigation proposals and evaluating them for compliance with the no net loss standard.

1. A map illustrating the distribution of existing plant communities in the area proposed for management. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, any natural or manmade disturbances, overhanging vegetation, and the functions served by the existing plant community (e.g., fish and wildlife values, slope stabilization);
2. A description of how mitigation sequencing was used and how the plan achieves no net loss of shoreline ecological functions the vegetation is providing;

3. An inventory of existing vegetation, including a description of vegetation overhanging the shoreline;
4. A detailed plan indicating which areas will be preserved and which will be cleared, including tree removal;
5. Drawings illustrating the proposed landscape scheme, including the species, distribution, and density of plants. Any pathways or non-vegetated portions and uses shall be noted;
6. A description of any vegetation introduced for the purposes of fish and wildlife habitat;
7. Installation of vegetation shall meet the following standards:
  - a. Native species that are of a similar diversity, density and type commonly found in riparian areas of Thurston County shall be used, unless non-native substitutes are authorized by the Administrator based on availability of native materials and said materials are appropriate to soil and climate conditions;
  - b. On public property, vegetation shall be selected and located to maintain public views identified in approved plans;
  - c. At the time of planting, plant materials shall be consistent with the standards in OMC 18.36, Landscaping and Screening;
  - d. The applicant may be required to install and implement an irrigation system to insure survival of vegetation planted. For remote areas lacking access to a water system, an alternative watering method may be approved;
  - e. Planting in the fall or early spring is preferred over summer for purposes of plant establishment; and
  - f. For a period of **5** **10** years after initial planting, the applicant shall replace any unhealthy or dead vegetation as part of an approved vegetation management plan.
- B. Loss of wildlife habitat shall be mitigated onsite. If onsite mitigation is not feasible, offsite mitigation shall be permitted in accordance with OMC 18.34.410; and
- C. The Administrator may waive some but not all of the **associated** **vegetation management installation** requirements **in this section** when the applicant demonstrates that the proposal will result in no net loss of shoreline functions by improving shoreline ecological functions of the shoreline, such as the removal of invasive species, shoreline restoration/enhancement, or removal of hard armoring.
- D. For other applicable regulations, see OMC Chapters 16.60, 18.32, and 18.36.
- E. In addition to A. – D. above all required vegetation installation shall conform to the standards of section 18.34.410 F. and G. of this SMP.

### **3.35 18.34.500 - View Protection - Intent**

Over 50 percent of Olympia’s marine shoreline is publicly owned. Much of this shoreline, such as at Percival Landing, West Bay Park, Priest Point Park, and the East Bay area provide opportunities for the public to enjoy the views of Mount Rainier, the Capitol, Budd Inlet and the Olympic Mountains. The future may provide even greater opportunities for the public to enjoy the scenic qualities of the area.

The protection of these public views from the shoreline is an important objective of Olympia’s Shoreline Program. Protection of such views to and from the shoreline can be achieved through multiple

**Comment [NL71]:** This change is **recommended** so there are no conflicts between this section and section 3.21(F)(6). The latter section requires that when mitigation measures are required to offset unavoidable impacts of proposed development, mitigation activities be monitored and maintained for a ten (10) year period. A later provision in this section (provision E) outlines that these two sections are intended to be consistent.

**Comment [NL72]:** These changes are **required** per WAC 173-26-191 (2)(a)(ii)(A). As written, this is an open ended provision and no limits are provided regarding how encompassing such waivers could be. For example, can the requirement to provide or establish a VCA be entirely waived? Can any percent of an established VCA be used for any activity an applicant might propose if they remove hard armoring? Because this provision was included in a section of the SMP specifically addressing requirements for revegetation, it must be clear those are the types of requirements the Administrator can waive.

strategies including public ownership and use of shorelands, the inclusion of public access and viewpoints in private development, establishing key view corridors, establishing height limits and design standards, vegetation management standards, and visual assessment where views may be impacted.

Private uninterrupted views of the shoreline, although considered, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.

### **3.36 18.34.504 View Protection Regulations**

- A. No permit shall be issued pursuant to [this](#) chapter for any new or expanded building or structure of more than 35 feet above average grade level that will obstruct the view of a substantial number of residences in areas adjoining such shorelines except where Olympia's Shoreline Program does not prohibit the same and then only when overriding considerations of the public interest will be served.
- B. All development within the shoreline jurisdiction shall comply with the view protection standards of OMC 18.110.060.
- C. Public shoreline views shall be protected by the use of measures, including but not limited to, maintaining open space between buildings, clustering buildings to allow for broader view corridors, and minimizing building height and total lot coverage.
- D. When there is an irreconcilable conflict between water-dependent uses and 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.
- E. Buildings shall incorporate architectural features that reduce scale such as increased setbacks, building modulation (vertical and horizontal), pitched roofs, angled facades, and reduced massing.
- F. New development, uses and activities shall locate trash and recycling receptacles, utility boxes, HVAC systems, electrical transformers, fences and other appurtenances to minimize interference with public views.
- G. Design and install utilities and accessory structures in such a way as to avoid impacts to scenic views and aesthetic qualities of the shoreline area.
- H. Communication and radio towers shall not obstruct or destroy scenic views of the water. This may be accomplished by design, orientation and location of the tower, height, camouflage of the tower, or other features consistent with utility technology.
- I. Fences, walls, hedges and other similar accessory structures shall be limited to four (4) feet in height between the Ordinary High Water Mark and primary structures.
- J. Where on-going maintenance of vegetation [on public property](#) to protect public views is necessary, a vegetation management plan shall be approved by the Administrator prior to any work. At a minimum, the vegetation management plan shall identify the viewshed to be preserved, the areas where vegetation will be maintained (including tree removal), and percent of vegetation to be retained. If trees are removed, they shall be replaced with three trees for each tree removed up to a minimum density of 220 trees per acre.

**Comment [NL73]:** This change is recommended to correct a typo.

**Comment [NL74]:** This change is recommended so that this provision is clearly consistent with OMC 18.34.493(A)(7).

### **3.37 18.34.507 - Visual Impact Assessment**

The applicant of a building or structure that exceeds 35 feet to the highest point above average grade level shall prepare and submit a visual analysis in conjunction with any development permit. At a

minimum, the analysis shall address how the proposed project impacts views protected under RCW 90.58.320 and OMC 18.110.060. The Administrator may require additional information such as photo-simulations showing proposed buildings in relation to impacted views. If the analysis shows the proposed building or structure would block or significantly compromise the view of a substantial number of residences in adjoining areas or views protected under OMC 18.110.060, the City may place conditions on the development to prevent the loss of views.

### **3.38 18.34.510 - Water Quality**

- A. Septic systems for new development within the shoreline jurisdiction are prohibited.
- B. Stormwater management facilities for new uses and development shall be designed, constructed, and maintained in accordance with the Olympia Drainage Design and Erosion Control Manual of Olympia. To the extent feasible, low impact development best management practices shall be incorporated into every project along the shoreline. All redevelopment and new development within Reaches 4 and 5A shall require compliance with the Drainage Design and Erosion Control Manual of Olympia without consideration to the thresholds established therein.
- C. The use of wood treated with creosote, copper, chromium, arsenic or pentachlorophenol shall only be approved upon a finding of no feasible alternative.
- D. All structures that come in contact with water shall be constructed of materials that will not adversely affect water quality or aquatic plants or animals.
- E. Uses and activities that pose a risk of contamination to ground or surface waters shall be prohibited in shoreline jurisdiction. Such uses include, but are not limited to the following:
  - 1. Storage, disposal, or land application of waste (excluding secondary/tertiary treated effluent from municipal sewer systems), including solid waste landfills;
  - 2. Operations for confinement feeding of animals;
  - 3. Agricultural activities that involve the application of fertilizers, pesticides, or other chemical treatments;
  - 4. Junk yards and auto wrecking yards;
  - 5. Storage of hazardous or dangerous substances within a floodplain; and
  - 6. Alterations to structures and uses served by septic systems that do not meet local or state requirements.

### **3.39 18.34.600 - Shoreline Use and Development – Intent**

The purpose of this section is to set forth regulations for specific common uses and types of development that occur within Olympia’s shoreline jurisdiction. Where a use is not listed on Table 6.1, the provisions of OMC 18.34.250, Unclassified Uses, shall apply. All uses and activities shall be consistent with the provisions of the shoreline environment designation in which they are located and the general regulations in OMC 18.34.400 through 18.34.510.

### **3.40 18.34.610 – General Use and Development Provisions**

- A. Developments that include a mix of water-oriented and nonwater-oriented uses may be approved if the Administrator finds that the proposed development avoids impacts to shoreline ecological functions, provides public access, and otherwise enhances the public’s ability to enjoy the shoreline.

**Comment [NL75]:** This change is **required** in accordance with 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”. This provision and other City codes it references never outline how the assessment will be used, in other words what happens if it is found that the view blockage is significant or exceeds the criteria in the Master Program.

**Comment [NL76]:** This change is **recommended** for clarity and internal consistency.

B. All uses not explicitly permitted in this Chapter shall require a shoreline conditional use permit. The ~~Administrator and/or~~ Hearing Examiner may impose conditions to ensure that the proposed development meets the policies of Olympia's Shoreline Program.

**Comment [NL77]:** This change is recommended for consistency – all conditional use permits are issued by the Hearings Examiner in accordance with section 3.12 of the SMP and OMC 18.72.080.

C. All development and uses must conform to all ~~of the applicable~~ provisions of this Shoreline Program, ~~including, D. All development and uses shall conform to~~ the shoreline use table and the development standards table in OMC 18.34.600 through 18.34.710, unless otherwise stated ~~or upon approval of a shoreline variance~~.

**Comment [NL78]:** This change is recommended to consolidate and clarify two provisions that essentially say the same thing.

~~E-D.~~ Except as required by state or federal regulations or explicitly authorized by this Chapter, forestry practices, mining and solid waste uses and activities are prohibited in all shoreline areas.

**Comment [NL79]:** Renumber provision.

### **3.41 18.34.620 - Use and Development Standards Tables**

A. Table 6.1 identifies allowed uses and activities by shoreline environment designation. Table 6.2 establishes building heights by shoreline environment designation, Table 6.3 establishes development standards by shoreline environment designation including shoreline setbacks and vegetation conservation areas. These tables shall be used in conjunction with the written provisions for each use. Table footnotes provide additional clarification or conditions applicable to the associated uses or development regulation.

B. Maximum Shoreline Building Heights are not applicable to light and utility poles; nor to equipment used for loading and unloading such as conveyors and cranes within the Port Marine Industrial environment and adjacent Aquatic Environment.

C. Upon finding that such structures will not result in a net loss of shoreline functions and ~~is are~~ otherwise consistent with Olympia's Shoreline Program, the Administrator may authorize small buildings and other structures within the "building setback" area ~~but outside of the VCA, if locating such structures outside of shoreline jurisdiction is not feasible~~. Any such structures shall not exceed a total 800 square feet within each development, shall not be located ~~within critical areas or their buffers unless authorized in OMC 18.34.420, shall not be~~ closer than 30 feet to the Ordinary High Water Mark or the width of the VCA whichever is greater, and shall not exceed a height of 20 feet. To ensure protection of shoreline functions ~~and views~~, the Administrator may ~~attach conditions to approval of the permits as necessary to assure consistency of the project with the Act and this Shoreline Program require appropriate measures including enhancement of any associated vegetation conservation area~~.

**Comment [NL80]:** These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), WAC 173-26-201 (2)(d) and WAC 173-26-221 (4)(d)(iv). Ecology repeatedly relayed its concerns with this provision to the City during development of this document. Absent documentation to the contrary, Ecology must assume that all requests of this nature will be granted. The likelihood or possible extent of these types of requests and the potential for associated cumulative effects were not addressed in the Cumulative Impacts Assessment for the City's adopted Master Program.

D. Setback reductions shall be allowed as provided in Table 6.3 and subject to the following:

1. Incentives for setback reductions noted herein are cumulative up to the maximum reduction allowed. Incentive eligible restoration projects may be completed in association with, or in addition to, required mitigation projects, however, no setback reductions shall be allowed for required mitigation projects. Prior to the Administrator approving setback reduction incentives ~~proposed to be achieved offsite~~, the applicant shall demonstrate compliance with the mitigation sequence at a site level as provided in Section 18.34.410 of the SMP. ~~Only after the Administrator concludes that impacts have been avoided and minimized to the extent feasible and that Restoration incentives must be achieved onsite restoration unless the Administrator finds this~~ is not feasible or would have significantly less ecological benefit ~~will than~~ offsite restoration ~~be approved~~. Offsite restoration ~~areas shall be within the city limits and shall be projects included in the Restoration Plan and located within the shoreline jurisdiction. All requirements of be consistent with the objectives for mitigation outlined in OMC Section 18.34.410 (H) and (I) shall apply to offsite restoration~~. Should no offsite restoration ~~project~~

Ecology does not consider an 800 square foot building to be "small"; 800 square feet is twice the size of a modern two-car garage. We acknowledge that 800 square feet is the limit on accessory structures in residential zoning districts in OMC 18.04.060, however not all accessory structures are water-oriented, preferred shoreline uses or are particularly dependent on a shoreline location.

Clarification that 'small' buildings cannot be located within VCAs is also necessary for internal consistency (internal consistency with this provision as well as with OMC 18.34.493 (B)).

option be available, onsite restoration mitigation shall be required to obtain the associated setback reduction incentive.

2. Physical Preferred public access shall be physical access to the marine shoreline from the public right-of-way via a sidewalk or paved trail on a publicly dedicated easement no less than 6 feet in width and constructed to City standards as included in the City's Engineering Design and Development Standards. Other forms of indirect access such as viewing towers and platforms may be considered where direct access to the shoreline is deemed dangerous due to the nature of the use of the property or the conditions at the shoreline. Existing access meeting the standards described herein may be used to meet setback incentive provisions.
- ~~3. Water-Related Recreation shall be an open space accessible to the public providing direct access to the shoreline. The water-related recreation area shall be no less than the area of the shoreline setback reduction and in no case shall the area be less than 1,000 square feet. Such areas shall include active playgrounds, significant art installations, performance space or interpretive features. Existing park space meeting the requirements described herein may be used to meet setback incentive provisions.~~
4. 3. Trail shall be a commuter multi-use trail on a public easement no less than 12 feet in width and providing no less than a 12 foot wide clear travel path, providing continuous public access across the site and shall be placed upland of the Ordinary High Water Mark and constructed to commuter multi-use trail standards as included in the City's Engineering Design and Development Standards. Existing trails meeting the requirements described herein may be used to meet setback incentive provisions. To receive setback reduction credit the trail must be built on the site.
- ~~5. 4. Vegetation restoration shall be planting of native shoreline vegetation in excess of that required to achieve no net loss of environmental function from unavoidable impacts associated with a development proposal. Plantings and shall substantially mimic undisturbed native shorelines in the South Puget Sound in plant species, species mixture and plant density. Vegetation restoration shall be accomplished through an approved Vegetation Management Plan. Uses may encroach the required setback area as described above so long as they provide for Restoration ratios of the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a shall begin at 2 square feet of restoration for every 1 square foot reduction of encroachment within the required setback area and demonstrate no net loss of environmental function. Such areas shall be no less than 25 feet in depth measured from the Ordinary High Water Mark and shall be no less than one acre in area.~~
6. 5. Removal of bulkhead shall be the physical removal of a vertical structure and replacement with a softened shoreline treatment. Measures may include use of shoreline contouring, gravels, cobbles, limited use boulders, logs, and vegetation in a manner that promotes native aquatic species and protects the shoreline from erosion.
- ~~7. 6. Replacement of a hardened shoreline shall be the physical removal of rip rap or other non-vertical shoreline protection and replacement with a softened shoreline treatment. Measures may include use of shoreline contouring, gravels, cobbles, limited use boulders, logs, and vegetation in a manner that promotes native aquatic species and protects the shoreline from erosion.~~
8. ~~7. In addition to items 1-7 above,~~ Water Dependent uses may encroach into the required setback and vegetation conservation area as described in Table 6.3 in accordance with the mitigation sequence in

**Comment [NL81]:** These changes are **required** per WAC 173-26-191 (2)(a)(ii)(A).

As written this provision has the potential to confuse the concepts of mitigation and restoration. The second sentence of this paragraph accurately captures that the incentives apply to voluntary proposals or projects and not to improvements necessary to compensate for the impacts of a proposal.

The required changes clarify the intent of the setback reduction incentives and how they will be implemented, how they differ from compensatory mitigation projects, and how proposals for offsite mitigation will be evaluated and the criteria that apply.

**Comment [NL82]:** The first change is **recommended** because this incentive really doesn't require physical public access. That is the preference, but indirect/visual access can also be considered under specific circumstances.

**Comment [NL83]:** This change is **required** in accordance with WAC 173-26-191 (2)(a)(ii)(A); water-related recreation space ~~was deleted from Table 6.3 as an incentive option.~~ appears to have been deleted from Table 6.3 as an incentive option prior to local adoption of the SMP (DOE Director requirement)

**Comment [NL84]:** These changes are **recommended** for clarity. Basing vegetative replacement ratios on encroachment impacts in VCAs is standard as it related to mitigation, because the purpose of VCAs is to conserve vegetation. Setbacks serve a different purpose and if the subject is voluntary restoration, the method to determine the area to be restored can be stated in a much clearer manner.

With regard to the last sentence, it was not clear what "areas" were being referred to, what was expected if less vegetation than that necessary to cover a 25 foot deep area was proposed, and whether the "one acre" in area requirement can even be met on each parcel in shoreline jurisdiction within this reach.

~~OMC 18.34.410 so long as they provide restoration in exchange for the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a 2 square foot of mitigation for every 1 square foot of encroachment within the required vegetation conservation area and demonstrate no net loss of environmental function. Required restoration shall meet the standards noted in 5 above.~~ Reductions to less than a 20 foot setback shall only be allowed where the following two requirements have been met:

- a. ~~Alternative public access has been provided sufficient to mitigate the loss of direct public access to the shoreline and in no case shall public access be less than 12 feet as described in paragraph 4 3 above.~~
  - b. ~~Projects proposing setbacks less than 20 feet shall also meet t~~ The shoreline bulkhead removal or hardening replacement requirements of 5 or 6 ~~or 7~~ above are met for each linear foot of shoreline impacted and the applicant ~~shall~~ demonstrates that a reduced setback would not result in the need for future shoreline stabilization.
9. 8. No setback shall be required in the Port Marine Industrial shoreline environmental designation, however, mitigation shall be required to offset any impacts determined through the mitigation sequencing process to ensure no net loss of environmental function and to mitigate for loss of public access.

**Comment [NL85]:** The text changes are **required** in accordance with WAC 173-26-201 (2)(e) and WAC 173-26-191 (2)(a)(ii)(A).

First, table 6.3 already allows water dependent uses to reduce to a 0 foot setback (bottom cell of the Marine Recreation row). It was not clear if the intent was to require incentive eligible measures to get from 75' to 50' for water dependent uses in this reach, explaining why the reduction in that cell started at 50' not at 75'. Regardless, it is inconsistent with policy goals of the SMA (give priority to uses that require a waterfront location) to require water dependent uses to comply with prescribed "incentives" to get a 25' reduction then allow the second 50' reduction automatically. This is essentially requiring restoration in excess of mitigation, in conflict with WAC 173-26-201 (2)(e). Furthermore, it would mean water dependent development would have to achieve every incentive eligible provision to be located along the shoreline, which may not be possible in this reach. Therefore, describing this as an incentive is unnecessary and inaccurate. Second, all uses and developments in shoreline jurisdiction are required to follow the mitigation sequence, even water dependent uses and developments. If there are unavoidable impacts to vegetation in VCAs as a result of such proposals, those impacts would require compensatory mitigation. The only unique portions of this provision that remain are essentially limitations on the setback reduction, so language pertaining to those limitations has been retained but clarified. See also required change Z – Chapter 3.41, Table 6.3, Setbacks and Incentives.

**Table 6.1 – Uses and Activities**

**LEGEND: P = Permitted C = Shoreline Conditional Use Permit X = Prohibited**

**C/P = A Shoreline Conditional Use Permit is required if wholly or partially located within 100 feet of the OHWM; uses and activities located more than 100 feet from the OHWM are permitted.**

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic <sup>1</sup>
<b>Agriculture</b>								
Agriculture	X	X	X	X	X	X	X	X
<b>Aquaculture</b>								
Restoration and Recovery of Native Populations	P	P	P	P	P	P	P	P
Commercial Aquaculture	C	C	C	C	C	C	X	C
<b>Boating Facilities</b>								
Marinas	P	P	X	X	X	P	X	C
Launch Ramps	P	P	P	P	P	P	X	P
Boathouses & Storage Structures,	P	P	P	P	P	P	X	X
Overwater Covered Moorage	X	X	X	X	X	X	X	X
<b>Commercial</b>								
Water Dependent	P	P	C	X	C	P	X	C
Water Related and Enjoyment	P	P	C	X	C	P	X	X
Non-water Oriented	C	C	X	X	X	C	X	X
<b>For Industrial/Light Industrial</b>								
Water Dependent	P	P	X	X	X	C	X	P
Water Related	P	P	X	X	X	C	X	X
Nonwater Oriented	X	X	X	X	X	X	X	X
<b>Recreation</b>								
Water Dependent & Enjoyment, and All Other Water Related, e.g., viewing platforms, wildlife blinds, interpretive areas	P	X	P	P	P	P	C	C
Non-water Oriented	C/P	X	C/P	X	C	X	X	X
<b>Residential</b>								
Residential	P	X	P	P	X	X	X	X

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic <sup>1</sup>
<b>Transportation</b>								
Roads/Railroads	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C
Trails and Shared Use Paths	P	P	P	C/P	P	P	C/P	P
Parking	P	P	P	C/P	C/P	P	C/P	X
<b>Utilities</b>								
Utility Lines, Buildings and Facilities	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C
<b>Other</b>								
All Other Uses Not Listed Above	C	C	C	C	C	C	X	C
Mixed Use	C/P	C	C	C	C	C/P	X	X

<sup>1</sup> Uses listed as permitted or conditional in the Aquatic designation are allowed only if permitted in the adjacent upland shoreline designation.

**Table 6.2 – Development Standards (Heights)**

Shoreline Environment	Shoreline Segment/Reach	Maximum Standard Building Height
Aquatic	All	20 feet
Natural	All	15 feet
Waterfront Recreation	Budd Inlet	42 feet
	Capitol Lake	35 feet
Urban Conservancy	All	35 feet
Shoreline Residential	Ward Lake	35 feet
	Ken Lake & Budd Inlet	35 feet
Marine Recreation	Budd Inlet	40 feet; 2 5 feet within 75 feet of OHWM
Urban Intensity	BUDD – 3A*, Budd 6A & Cap – 3B	42 feet to 65 feet Budd 3A*, 65 feet
	All others Budd-4 and Budd-5A	35 feet water-ward of streets; 90 feet remainder
Port Marine Industrial	All	65 feet

**Comment [NL86]:** The change to the title of the central column in this table is **recommended** for consistency with the rest of the SMP. The term “shoreline segment” is not used anywhere else in the SMP, while “reaches” are commonly referred to.

**Comment [NL87]:** The change to the second cell to reference Budd-4 and Budd-5A specifically is **recommended** for clarity.

\*Subject to the provisions of the West Bay Drive regulations 18.06.100 A.2.C.

Table 6.3 – Setbacks and Incentives

Shoreline Environment	Shoreline Setback/ VCA	VCA	Setback with maximum reduction– Non-water dependent	Incentive eligible provisions – See 18.34.620.ED.1	Shoreline Setback reduction	Required Standards
Aquatic	N/A		N/A	N/A	N/A	N/A
Natural	200' / <del>200'</del>	<u>200'</u>	N/A	N/A	N/A	N/A
Urban Conservancy	100' / <del>50'</del>	<u>50'</u>	N/A	N/A	N/A	N/A
Shoreline Residential - Ward Lake	75' / <del>20'</del>	<u>20'</u>	N/A	N/A	N/A	N/A
Shoreline Residential – Ken Lake, Budd Inlet	30' / <del>20'</del>	<u>20'</u>	N/A	N/A	N/A	N/A
Marine Recreation – Budd 5C	75' / <del>30'</del>	<u>30'</u>	50'	Physical Access	(7')	See 18.34.620.D.2
				Trail	(7')	See 18.34.620.D.4
				Restoration of vegetation	Up to (7')	See 18.34.620.D.5
				Bulkhead Removal >50% frontage	(10')	See 18.34.620.D.6
				Bulkhead Removal <50% frontage	(5')	See 18.34.620.D.6
				Replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.	(12.5')	See 18.34.620.D.7
*Water Dependent Uses Reduce from <del>50'-75'-0'</del>				Water Dependent Use	<u>55' or 100% (50'-75')*</u>	See 18.34.620.D.4- <del>8</del> <u>87</u>
Waterfront Recreation – Budd 3B	150' or the east side of West Bay Drive whichever is less.		150'	N/A	N/A	N/A

**Comment [NL88]:** Adding a column to the table is **recommended** for administrative clarity at the request of City staff; in addition to clarification of definitions in OMC 18.34.120, separate columns for setbacks and VCAs will help clarify that the VCA is part of the larger setback and not in addition to the setback. The addition of “shoreline” to the setback columns ensures consistency with the definitions in OMC 18.34.120. The correction to the incentive eligible provisions column fixes a typo. See also recommended change below.

**Comment [NL89]:** This change is **required** as outlined in required change Y above. See also recommended change RR regarding suggested changes to table layout.

Shoreline Environment	Shoreline Setback/ VCA	VCA	Setback with maximum reduction– Non-water dependent	Incentive eligible provisions – See 18.34.620.ED.1	Shoreline Setback reduction	Required Standards
Waterfront Recreation – Cap 6	30' / <del>30'</del>	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30'-0'				Water Dependent Use	100% (30')	
Waterfront Recreation Cap-7 (Marathon Park)	30'	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30'-0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 3A		30'/30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30'-0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 4	30' / <del>30'</del>	0'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30'-0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 5A		30'/0'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30'-0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 6A	100' / <del>30'</del>	0'	100'	N/A	N/A	N/A
Water Dependent Uses Reduce from 100' – 0'				Water Dependent Use	100'	N/A
Port Marine Industrial – Budd 5B	0'	0'	0'	Offsite mitigation N/A	100% (0') N/A	See 18.34.620.D.

**Comment [NL88]:** Adding a column to the table is recommended for administrative clarity at the request of City staff; in addition to clarification of definitions in OMC 18.34.120, separate columns for setbacks and VCAs will help clarify that the VCA is part of the larger setback and not in addition to the setback. The addition of "shoreline" to the setback columns ensures consistency with the definitions in OMC 18.34.120. The correction to the incentive eligible provisions column fixes a typo. See also recommended change below.

**Comment [NL90]:** The change in row Cap-6 is recommended to address a gap in the table, confirming that the shoreline setback reduction does not apply to reach Cap-6.

**Comment [NL91]:** See also recommended change RR regarding suggested changes to table layout.

This change (addition of two new rows) is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the portion of reach CAP-7 (as identified in the inventory) known commonly as Marathon Park was not addressed in the development standards table. The record outlines Marathon Park was intended to be treated in the same manner in this table as reach CAP-6.

**Comment [NL92]:** The changes in row Budd-5B are recommended because the information in these cells is unnecessary and could be misleading. Again focusing on the deliberate distinction between mitigation and restoration, incentives do not apply to mitigation required to compensate for unavoidable impacts. Furthermore, the shoreline setbacks and VCA are already 0' so there is nothing to reduce.

**3.42 18.34.630 - Agriculture**

- A. The creation of new agricultural lands and/or activities is prohibited.
- B. Confinement lots, feeding operations, lot wastes, stockpiles of manure solids and storage of noxious chemicals are prohibited.
- C. Existing agricultural activities shall be allowed to continue subject to:
  1. Expansion or modification of existing agricultural uses shall be conducted in a manner that avoids impacts to shoreline ecological functions and processes and shall comply with critical areas policies regulations set forth in this Chapter; and

2. Appropriate farm management techniques shall be used to prevent contamination of nearby water bodies and adverse effects on plant, fish and animal life from the application fertilizers and pesticides.

D. Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to nonagricultural uses shall be consistent with the environment designation, and general and specific use regulations applicable to the proposed use and not result in a net loss of shoreline ecological functions.

**Comment [NL93]:** This change is **required** in accordance with WAC 173-26-241 (3)(a)(vi).

### **3.43 18.34.640 –Aquaculture**

A. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Comment [NL94]:** These changes are **required** in accordance with WAC 173-26-241 (3)(b). See also recommended change TT – Chapter 3.43 – Aquaculture.

~~A.~~ B. Commercial aquaculture shall conform to all applicable State **and Federal** regulations. **The City may accept application documentation required by other permitting agencies for new and expanded aquaculture uses and development to minimize redundancy in permit application requirements. Additional studies or information may be required by the City, which may include but is not limited to monitoring and adaptive management plans and information on the presence of and potential impacts to, including ecological and visual impacts, existing shoreline or water conditions and/or uses, vegetation, and overwater structures.**

~~B.~~ C. Aquaculture activities and facilities shall be located where they do not adversely impact native eelgrass and microalgae species or other critical saltwater habitats, priority species or species of concern, or habitat for such species as defined in OMC 18.34.120. Aquaculture uses and activities shall observe all upland and aquatic buffers or setbacks required by applicable State or Federal regulations. Larger buffers or other protections may be required if supported by relevant resource agencies in coordination with the Administrator. Aquaculture shall not be permitted in areas where it would result in a net loss of shoreline ecological functions, or where adverse impacts to critical saltwater habitats cannot be mitigated according to impacts to ecological functions shall be mitigated according to the mitigation sequence of OMC 18.34.410(B).

~~C.~~ D. Aquaculture for the recovery of native populations is permitted when part of an approved restoration or habitat management plan complying with this Chapter.

E. In addition to other requirements in this chapter, applications for commercial geoduck aquaculture shall contain all of the items identified in WAC 173-26-241 (3)(b)(iv)(F).

**Comment [NL95]:** These changes are **recommended** to provide specificity and transparency for all parties if a commercial aquaculture activity should be proposed within Olympia's shoreline jurisdiction. The text in provision B incorporated required change CC – Chapter 3.43 - Aquaculture.

### **3.44 18.34.650 - Boating Facilities - General Regulations**

- A. Boating facilities which will adversely impact shoreline ecological functions and system-wide processes, especially in highly sensitive areas such as estuaries and other wetlands, forage fish habitat, and other critical saltwater habitats, are prohibited.
- B. Marinas and launch ramps shall be located in areas where there is adequate water mixing and flushing, and shall be designed not to retard or negatively influence flushing characteristics.
- C. Marinas and boat launch ramps shall be located only on stable shorelines where water depths are adequate to avoid the net loss of shoreline ecological functions and processes, and eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach feeding and other river, lake, harbor, and channel maintenance activities.
- D. All boating facilities, including marinas and boat yards, shall utilize effective measures to prevent the release of oil, chemicals, or other hazardous materials into the water.

- E. Marinas and boat launches shall provide physical and visual public access. This requirement may be waived by the Administrator if the applicant demonstrates that public access is not feasible in accordance with the provisions of OMC 18.34.450.
- F. Locate boating facilities where parking and access can be provided without causing adverse impacts to adjacent properties.
- G. Restrooms and garbage facilities shall be provided at marinas and boat launching facilities.
- H. Lighting for boating facilities shall be designed to minimize light and glare, especially where it is visible to adjacent properties and properties across the water. Illumination levels shall be the minimum necessary for the intended use. All light fixtures shall be fully shielded and oriented to avoid shining directly on the water and to prevent spillover offsite.
- I. Mooring of boats for extended periods shall comply with applicable state regulations.

**3.45 18.34.652 – Boat Launch Ramps**

- A. Boat launch ramps shall be located, designed, constructed and maintained to reduce impacts to the shoreline. Preferred ramp designs, in order of priority, are:
  - 1. Open grid designs with minimum coverage of beach substrate;
  - 2. Seasonal ramps that can be removed and stored upland; and
  - 3. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to change in beach profile.
- B. Ramps shall be located, constructed and maintained where alterations to the existing foreshore slope can be avoided or minimized.

**3.46 18.34.654 – Marinas**

- A. New marinas are allowed only when they are consistent with Olympia’s Shoreline Program and only when the proponent demonstrates that all of the following conditions are met:
  - 1. The proposed location is the least environmentally damaging alternative. Shallow water embayments, areas of active channel migration where dredging would be required, and areas of intact shoreline ecological functions and processes shall be avoided;
  - 2. To the extent feasible, hard armoring is avoided (see Section C below);
  - 3. Potential adverse impacts on shoreline processes and ecological functions are mitigated to achieve no net loss;
  - ~~4. The project includes ecological restoration measures to improve baseline conditions over time;~~
  - 4.** The area has adequate water circulation and flushing action, and the marina is designed so that it does not negatively influence flushing characteristics;
  - ~~5.~~ **5.** The proposed location will not require excavation and/or filling of wetlands or stream channels; and
  - ~~6.~~ **6.** Suitable public infrastructure is available, or can be made available by project completion, to support the marina.
- B. Where permitted, marinas shall be designed, constructed and operated as follows:

**Comment [NL96]:** This change is **required** in accordance with WAC 173-26-201 (2)(e)(ii)(A) - Application of the mitigation sequence shall achieve no net loss of ecological functions for each new development and not result in required mitigation in excess of that necessary to assure that development will result in not net loss of shoreline ecological functions. Renumber following provisions.

1. Floating structures shall be designed to prevent grounding on tidelands. Floats shall not rest on the substrate at any time. Stoppers or stub pilings shall be used to keep the bottom of the float at least one foot above the level of the substrate;
  2. Piers and other structures shall be located, sized, and designed to minimize shading of nearshore aquatic habitats and impacts to species that use these areas;
  3. Solid structures shall be designed to provide fish passage through and along the shallow water fringe;
  4. Marina development shall be required to provide public access amenities pursuant to OMC 18.34.450, Public Access. The location and design of public access shall be determined based on a given location and the public access needs in the vicinity of the marina. Existing public access shall not be adversely impacted;
  5. Impacts to navigation shall be avoided; where unavoidable, impacts shall be mitigated;
  6. New floating homes and on water residences are prohibited. A floating home permitted or legally established prior to January 1, 2011 and floating on water residences legally established prior to July 1, 2014 will be considered conforming uses. Live-aboard vessels are permitted only if adequate solid waste and sanitary sewer disposal facilities are provided and maintained;
  7. Marinas shall provide restrooms and solid waste receptacles to accommodate marina users, and shall have facilities and established procedures for the collection of solid waste or sewage, other than discharge into the water;
  8. Marinas shall provide pump-out, holding and/or treatment facilities for sewage contained on boats or vessels;
  9. Marina operators shall post all regulations pertaining to handling and disposal of waste, sewage, fuel and oil or toxic materials where they can be easily read by all users; and
  10. Marinas shall have facilities and established procedures for the containment and recovery of spilled petroleum or toxic products.
  11. Marina buildings shall conform to the setbacks established in Table 6.3.
- C. Where allowed, marinas that involve breakwaters shall meet all of the following design criteria:
1. Breakwaters built water-ward in a perpendicular plane to the shoreline shall not be allowed as a continuous one-piece structure;
  2. The toe of the breakwater may not extend water-ward of the Ordinary High Water Mark more than 250 feet from mean higher high water;
  3. Breakwaters shall be built so that the side slopes shall not be steeper than 1-1/2-foot horizontal to 1-foot vertical slope;
  4. The opening between a shore breakwater and an isolated breakwater shall not be less than 20 feet in width as measured at the toe of the slope;
  5. Openings must be maintained at project depth at all times in order to ensure proper circulation and fish passage;
  6. Openings may be either offset or in-line design;
  7. Openings may also be used as navigational channels;

**Comment [NL97]:** These changes are **required** in accordance with RCW 90.58.270 (5) and (6).

8. The opening must be sized (depth and/or width) so as to ensure proper circulation inside the marina configuration and exchange with the outside bay. To facilitate this exchange, the volume of the tidal prism (water present between mean low and mean high tide) shall be not less than 50 percent of the total volume of the basin;
9. The depth of the openings shall be at least as deep as the average depth of the marina; and
10. Openings may be baffled to protect the marina against wave action but in no instance should the baffling impede water circulation or fish movement.

### **3.47 18.34.656 – Boat Storage**

- A. Boat storage shall be located upland unless:
  1. No suitable upland locations exist for such facilities;
  2. It can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes; or
  3. It can be demonstrated that wet moorage would enhance public use of the shoreline.
- B. Marinas that provide dry upland storage shall use a launch mechanism that protects shoreline ecological functions and processes and minimizes use of shoreline areas.
- C. Dry moorage and other storage areas shall be located away from the shoreline and be landscaped with native vegetation to provide a visual buffer for adjoining dissimilar uses or scenic areas.

#### **D. Boat Houses/Boat Storage Buildings above and landward of the Ordinary High Water Mark are permitted, and must comply with all the following:**

1. A view corridor of not less than 35 percent of the width of the property shall be maintained between the abutting street and waterway;
2. The structure does not exceed the maximum height set forth on Table 6.2; and
3. The structure shall be visually compatible with the surrounding environment.

### **3.48 18.34.658 – Covered Moorage**

- A. New overwater covered moorage and the expansion of existing covered moorage is prohibited.
- ~~B. Boat Houses/Boat Storage Buildings above and landward of the Ordinary High Water Mark are permitted, and must comply with all the following:~~
  - ~~1. A view corridor of not less than 35 percent of the width of the property shall be maintained between the abutting street and waterway;~~
  - ~~2. The structure does not exceed the maximum height set forth on Table 6.2; and~~
  - ~~3. The structure shall be visually compatible with the surrounding environment.~~

### **3.49 18.34.660 Commercial Use and Development – General**

- A. The construction of new and the expansion of existing overwater commercial buildings is prohibited, **except construction or expansion for an authorized water dependent commercial use.**
- B. Public access shall be provided for all commercial use and development pursuant to OMC 18.34.450.
- C. Vegetation conservation areas, as required per Table 6.3, shall be provided and planted pursuant to the provisions in Section 18.34.492.

**Comment [NL98]:** This change (moving provision B from section 3.48 to section 3.47 and making it provision (D) is **recommended** because the subject provision speaks to upland boat storage, not covered moorage. Covered occurs waterward of the ordinary high water mark per the definition in section 3.3(C).

**Comment [NL99]:** This change is **required** in accordance with WAC 173-26-191(2)(a)(ii)(A). Table 6.1 allows water dependent commercial uses overwater (in the Aquatic designation) with a conditional use permit.

D. Commercial development shall not impact the rights of navigation.

E. Home occupations are not considered to be commercial uses.

### **3.50 18.34.663 - Water-Oriented Commercial Use and Development**

A. Water-oriented commercial use and development shall demonstrate that:

1. There will be no net loss of shoreline ecological functions or processes;
2. There will be no significant adverse impact on other shoreline uses, resources and/or values such as navigation, recreation, public access, and design compatibility; and
3. The design, layout, and operation of the use or development meet the definition of water-oriented uses.

### **3.51 18.34.667- Non-Water-Oriented Commercial Use and Development**

Non-water-oriented uses may be allowed only if they are part of a mixed use development that include water-oriented uses, provide public access, and shoreline enhancement/restoration. The applicant shall demonstrate that the project will result in no net loss to shoreline ecological functions or processes. In areas zoned for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or right-of-way.

### **3.52 18.34.670 - Industrial Development**

A. Water-dependent or water-related industrial development shall be permitted when the applicant demonstrates that:

1. It will not cause a net loss of shoreline ecological functions or processes;
2. It will not have significant adverse impacts on other shoreline uses, resources and/or values such as navigation, recreation and public access; and
3. The design, layout, and operation of the use or development meet the definition of water-dependent or water-related uses.

B. The construction of new **non-water oriented industrial uses is prohibited.** ~~or~~ The expansion of existing non-water-related or non-water dependent industrial uses shall **obtain require** a shoreline conditional use permit **in accordance with OMC 18.34.250 (A).** Any setback area may be used for additional public access or shoreline restoration.

C. Cooperative use of docking, parking, cargo handling and storage facilities on industrial properties shall be provided where feasible.

D. Design port facilities to permit viewing of harbor areas from viewpoints, waterfront restaurants, and similar public facilities which would not interfere with port operations or endanger public health or safety.

E. Industrial use or development shall be located and designed to minimize the need for initial or recurrent dredging, filling or other harbor and channel maintenance activities.

F. Industrial use or development shall include the capability to contain and clean-up spills, leaks, discharges, or pollutants, and shall be responsible for any water or sediment pollution they cause.

~~G. Any shoreline permit application for industrial uses shall include the following information:~~

- ~~1. Evidence of water orientation;~~

**Comment [NL100]:** This change is recommended so provisions in the SMP align with commercial provisions/allowances in the Guidelines at WAC 173-26-241 (3)(d).

**Comment [NL101]:** This change is required in accordance with WAC 173-26-191(2)(a)(ii)(A). Table 6.1 prohibits new non-water oriented industrial/light industrial uses. Existing non-water oriented uses would then be considered non-conforming uses, and the expansion of such would require a Conditional Use Permit per other sections of the SMP.

- ~~2. Cooperative use of service facilities by multiple users, where feasible;~~
- ~~3. Information on transportation and utility service corridors, traffic circulation, access to the facility, and the impacts of the proposed project on transportation, circulation and navigation in the area;~~
- ~~4. The design and location of public access if feasible;~~
- ~~5. Methods for treatment, control, and disposal of waste including any proposed storm or sanitary sewer outfalls;~~
- ~~6. The location and method of storing chemicals or other hazardous materials;~~
- ~~7. Analysis of the impact of the proposed project upon groundwater, hydrology, drainage patterns and soil erosion;~~
- ~~8. Analysis of air quality, noise levels, and light pollution impacts;~~
- ~~9. Analysis of impacts to shoreline ecological functions and processes; and~~
- ~~10. Mitigation plan to address any unavoidable adverse impacts to the shoreline environment.~~

**Comment [NL102]:** This change is **recommended** at the request of City staff, to avoid redundancies or potential conflicts with the City's established application content lists.

G. ~~H.~~ Water storage and handling of logs shall be limited to the marine shoreline and shall be subject to the following standards:

1. Permits shall contain provisions for the cleanup of log dumping and rafting areas, and disposal of solid wastes;
2. Bark and wood debris controls, together with collection and disposal facilities, must be employed at log dumps, raft building areas, and mill handling areas; and
3. Permits for 'free-fall' dumping of logs shall not be issued unless the applicant can demonstrate that this method will create fewer adverse impacts than the 'gradual' method. The use of log bundling and other devices shall be used to reduce adverse impacts.

H. Dry-land storage of logs shall be limited to the marine shoreline and shall be subject to the following standards:

1. Unpaved storage areas underlain by permeable soils shall have at least a four (4) foot separation between the ground surface and the winter water table; and
2. Dikes, drains, vegetative buffer strips or other means shall be used to ensure that surface runoff is collected and discharged in a manner least detrimental to water quality from the storage area. The applicant shall demonstrate that water quality standards or criteria will not be violated by such runoff discharge under any conditions of flow in nearby water sources.

I. Sites for the storage and/or distribution of natural resource materials (e.g., rock, sand, and gravel) shall be located, designed and operated in accordance with the provisions of Olympia's Shoreline Program. Loading areas at the water's edge shall be the minimum necessary and shall include measures to reduce erosion of the shoreline, damage to vegetation, and impacts to water quality.

J. The construction of new, or the expansion of existing, overwater industrial buildings is prohibited, **except construction or expansion for an authorized water dependent industrial use.**

**Comment [NL103]:** This change is **required** in accordance with WAC 173-26-191(2)(a)(ii)(A). Table 6.1 allows water dependent industrial/light industrial uses overwater (in the Aquatic designation).

### **3.53 18.34.680 - Recreation**

A. Water-oriented recreation uses and development are preferred shoreline uses and shall be allowed when the applicant demonstrates that they:

1. Will not cause a net loss of shoreline ecological functions or processes; and
2. Will not have significant adverse impacts on other shoreline uses, resources and/or values such as navigation and public access.

B. Park and recreation facilities may be used for events and temporary uses ~~that~~when the proposed use will not damage the shoreline. Structures associated with such uses shall be located as far landward as feasible and shall be removed immediately after the event is over. Shoreline areas shall be returned to pre-event conditions.

**Comment [NL104]:** This change is recommended to correct a typo.

C. Recreational use and development shall include appropriate mitigation to minimize light and noise impacts on adjoining properties. Such measures shall include but not be limited to, fencing, vegetative screening, increased setbacks, limited hours of operation, and other appropriate measures. Where lighting is used, the illumination levels shall be the minimum needed for the intended use. Lighting must be shielded to avoid light and glare on the water and to prevent spillover offsite.

D. The construction of new trails or the expansion of existing trails shall be subject to the mitigation sequencing process and shall be designed to minimize impacts to the ecological functions of the shoreline while providing access and waterfront enjoyment to the public.

E. All commercial recreation facilities shall conform to this section and OMC sections 18.34.660, 18.34.663, and 18.34.667.

**F. Recreational facilities shall be located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located.**

**Comment [NL105]:** This change is required in accordance with WAC 173-26-241 (3)(i).

**3.54 18.34.690 - Residential Use and Development**

A. New residential development, including additions to existing structures, shall meet the development standards set forth on Tables 6.2 and 6.3 particularly and this title in general.

**Comment [NL106]:** This change is recommended because there are also development standards (setbacks) in Table 6.3.

B. Residential development shall be designed to:

1. Maintain or improve ecological functions and processes;
2. Preserve and enhance native shoreline vegetation; or if vegetation is degraded or none is present, restore or enhance in accordance with the provisions of OMC 18.34.492;
3. Control erosion and impacts to slope stability;
4. Avoid the use of shoreline armoring at the time of construction and in the future;
5. Preserve shoreline aesthetic character; and
6. Minimize structural obstructions to normal public use and views of the shoreline and the water.

C. A small waterfront deck or patio can be placed along the shoreline provided:

1. The waterfront deck or patio and associated access path, covers less than 25 percent of the ~~shoreline frontage (width of lot measured along the shoreline)~~ VCA and native vegetation covers a minimum of 75 percent of the VCA shoreline frontage;
2. Within 25 feet of the shoreline Ordinary High Water Mark, for every one square foot of waterfront deck or patio in the VCA, three square feet of vegetation area shall be provided in the VCA along the shoreline;
3. The total area of the waterfront deck or patio shall not exceed 400 square feet;

**Comment [NL107]:** This change is required in accordance with WAC 173-26-191(2)(a)(ii)(A); the terms VCA and ordinary high water mark are used throughout the document to describe these areas and using the same terms here clarify exactly where and how this provision applies.

4. Pervious materials are used;
  5. The deck or patio is setback a minimum of five feet from the Ordinary High Water Mark; and
  6. The upper surface of the deck or patio is no more than two feet above grade and is not covered.
- D. Overwater residential development shall be prohibited. This provision shall not apply to live-aboard vessels expressly approved as part of a marina.
- E. New residential development of more than nine lots or units shall provide public access for use by residents of the development and the general public. Public access shall be located, designed and managed in accordance with the provisions of OMC 18.34.450.
- F. To preserve views of the water, fences shall not be allowed within vegetation conservation areas. Fences within the shoreline setback area are permitted provided they do not exceed 48 inches in height.
- G. When two or more undeveloped single-family legal building sites are contiguous within shorelines, only a single joint-use dock with a common access easement is permitted for use by those two or more residential units.
- H. For new multi-unit residential developments, only one single joint-use dock shall be allowed for the entire development.
- I. Plats and subdivisions shall be designed, configured and developed in a manner that assures no net loss of shoreline ecological functions will occur as a result of full build out of all lots and in a manner that prevents the need for new shoreline stabilization or flood hazard reduction measures.**

**Comment [NL108]:** These changes are **required** in accordance with WAC 173-26-241(3) (j)(i) and (ii).

**3.55 18.34.700 - Transportation and Trail Facilities**

- A. The following provisions apply to trail, road and railroad expansions:
1. The improvements shall be located as far landward as feasible;
  2. The construction shall be designed to protect the adjacent shorelands against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment both during and after construction;
  3. The proposed width shall be the minimum necessary for the proposed improvements;
  4. The project shall be planned to fit the existing topography as much as feasible, thus minimizing alterations to the natural environment;
  5. Streams or natural drainage ways within the road corridor shall be protected, and fish passage shall not be impaired;
  6. All debris, overburden and other waste materials from construction shall be disposed of to prevent their entry into the adjoining water body;
  7. The location and design of **new** roadways **expansions** shall not compromise existing and planned shoreline public access **and existing**, or compromise existing and planned habitat restoration or enhancement projects; and
  8. The project shall not result in the net loss of shoreline ecological functions or processes.
- B. Transportation facilities shall be designed to cross shoreline areas by the shortest, most direct route feasible.

**Comment [NL109]:** This change is **recommended** because this provision (A) is focused on expansion of existing facilities, not new facilities. The recommended changes also address a typo.

- C. Access roads and/or drive lanes serving shoreline parcels shall be the minimum width necessary.
- D. Bridges may be permitted within sensitive fish and wildlife habitat only if the following conditions are met:
  1. An alternative alignment is not feasible;
  2. The project is located or designed to minimize its impacts on the environment;
  3. Adverse impacts are mitigated to achieve no net loss of shoreline ecological functions and system-wide processes;
  4. Open-piling and piers required to construct the bridge may be placed water-ward of the Ordinary High Water Mark if no alternative method is feasible; and
  5. All other applicable provisions of this Chapter and Chapter 18.32, Critical Areas, are met.
- E. Trails and shared use paths are considered transportation facilities and are allowed within the shoreline setback, vegetation buffer, and overwater. As such, they are subject to the provisions herein including OMC 18.34.410(B). Where feasible new public trails and shared use paths shall use abandoned rail corridors to minimize disturbance of the shoreline.

**3.56 18.34.710 - Utilities**

- A. Utility facilities and lines shall be designed and located to avoid net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with existing and planned land and shoreline uses.
- B. New public or private utilities, including both lines and associated facilities, shall be located as far landward of the Ordinary High Water Mark as feasible, preferably outside of the shoreline jurisdiction, and be located at least 30 feet landward of the OHWM, unless:
  1. The utility requires a location adjacent to the water, such as a stormwater outfall; or
  2. Alternative locations are infeasible; or
  3. Utilities are serving uses and activities permitted by this Chapter.
- C. Onsite utilities serving a primary use, such as a water, sewer, communication, electric, or gas line to a residence, are accessory utilities and shall be considered part of the primary use.
- D. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future due to flooding and bank erosion that may occur over time. Boring, rather than open trenches, is the preferred method of utility water crossings.
- E. Where no other options exist, in-water utility corridors may be allowed provided the corridor is located and designed to minimize impacts to shoreline ecology and processes, and adverse impacts are mitigated.
- F. When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings and shall avoid duplication and construction of new parallel corridors in all shoreline areas.
- G. Utility facilities shall be constructed using techniques that minimize the need for shoreline fill.
- H. New utility installations shall be planned, designed and located to eliminate the need for structural shoreline armoring or flood hazard reduction measures.

- I. Vegetation clearing during utility installation and maintenance shall be minimized, and disturbed areas shall be restored or enhanced following project completion.
- J. Pipes that outfall directly into the water shall be designed and located to minimize adverse impacts on shoreline ecological functions and processes.
- K. Utility corridors shall be located and designed to protect scenic views. Where feasible, utilities shall be placed underground or alongside or under bridges, unless doing so would cause greater ecological impact or harm.
- L. Stormwater facilities are prohibited where alternatives are feasible. Any stormwater facility located within a minimum width vegetation conservation area shall be landscaped consistent with 'VCA' requirements.
- M. To the greatest extent feasible, new utility systems shall be co-located with other existing or planned utilities, roadways and/or railways and/or placed within already-disturbed corridors whenever feasible.

**3.57 18.34.800 - Shoreline Modifications – General Provisions**

- A. Shoreline modifications are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to structures such as dikes, breakwaters, piers, docks, weirs, dredge basins, fill, bulkheads, or other actions such as clearing, grading, application of chemicals, or vegetation removal. Generally, shoreline modifications are undertaken to prepare for a shoreline use, support an upland use, or to provide stabilization or defense from erosion.
- B. Proposals for shoreline modifications are to be reviewed for compliance with the applicable use policies and regulations in OMC 18.34.600 through 18.34.710 and the applicable shoreline modification regulations of this Chapter. Deviations from the minimum development standards may only be approved under a shoreline variance unless specifically stated otherwise. Shoreline modifications listed as prohibited are not eligible for consideration as a shoreline variance.
- C. Only shoreline modifications that support or protect an allowed primary structure or a legally existing shoreline use are allowed. All others are prohibited.
- D. Shoreline modifications shall not result in the loss of shoreline ecological functions or ecosystem wide processes. All proposals for shoreline modifications shall take measures to avoid or reduce ecological impacts in accordance with the mitigation sequencing priorities set forth in OMC 18.34.410(B).
- E. Shoreline modifications individually and cumulatively shall not result in a net loss of shoreline ecological functions and ecosystem-wide processes. This shall be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impact resulting from said modifications.
- F. Shoreline modifications shall comply with critical area and vegetation conservation standards in this Chapter.

**G. New structural flood hazard reduction measures shall only be allowed when a geotechnical analysis demonstrates that they are necessary to protect existing development, that nonstructural measures or other protection alternatives are not feasible, and that impacts to ecological functions and priority habitats and species can be successfully mitigated so as to assure no net loss.**

**Comment [NL110]:** These changes are required in accordance with WAC 173-26-221 (3)(c)(ii), (iii) and (iv).

H. New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated vegetation conservation areas, except for actions that increase ecological functions.

I. New public structural flood hazard reduction measures shall dedicate and improve public access pathways except when public access would cause unavoidable safety or health hazards to the public, unavoidable security or use conflicts, ecological impacts that cannot be avoided or mitigated, or disproportionate and unreasonable cost.

**3.58 18.34.810 - Permitted Shoreline Modifications**

Shoreline modifications may be allowed by shoreline environment designation as listed in Table 7.1. Aquatic environment provisions are based on the adjacent environment designation, including permitted with a shoreline substantial development permit or exemption (P), shoreline conditional use permit (C), or prohibited outright (X). This table shall be used in conjunction with the written provisions for each use. Column notes provide additional clarification and identify other applicable City regulations.

**Comment [NL111]:** This change is recommended because some of the items in this table labeled with a "P" could meet the criteria for an exemption in OMC 18.34.220.

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.34. <del>850</del> <u>820</u>
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	<del>C</del> <u>P</u>	←	See OMC 18.34. <del>850-830</del> <u>through 837</u>
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.34. <del>840 842</del> through 18.34.848
Ecological Restoration and Enhancement (including instream structures)	<del>C</del> <u>P</u>	P	←	See OMC 18.34. <del>840 850</del> through 18.34. <del>848-855</del>
Instream Structures	<u>P</u>	<u>P</u>		<u>See OMC 18.34.857</u>
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.34. <del>875-870</del>	←	See OMC 18.34.860 through 18.34. <del>875-870</del>
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.34.860 through 18.34. <del>875-870</del>
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.34. <del>805-874</del>	←	See OMC 18.34. <del>800-872</del> through <u>18.34.874</u>
Stair Towers	X	X	←	Prohibited

**Comment [NL112]:** Changes to this table are recommended so that the numbers/code references in the “applicable regulation” column align with the cited code sections.

Two changes are recommended to the type of authorization necessary for specific modifications. Conditional Uses require approval by the City’s hearing examiner as well as the Department of Ecology. In the case of upland fill, additional time and monies spent to obtain a CUP for what is essentially a grading permit subject to the standards in the SMP in OMC 18.34.833 does not appear to add value to the process. The same can be said for restoration and enhancement in the Natural designation. In consideration of the designation criteria, little or no restoration should be necessary within shoreline jurisdiction because the Naturally-designated reach is relatively ecologically intact.

The final recommended change would remove instream structures from the “ecological restoration and enhancement row” and place them in a separate row. As Ecology has outlined to the City in past comments, instream structures are not limited to or proposed only in the context of restoration and/or enhancement.

### 3.59 18.34.820 - Dredging

- A. New development shall be located and designed to avoid or, if avoidance is not feasible, to minimize the need for new dredging and maintenance dredging. Where permitted, dredging shall be limited to the minimum necessary for the proposed use.
- B. Dredging is permitted for the following activities (see Table 7.1 for permit type):
  - 1. In conjunction with a water-dependent use;
  - 2. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist;
  - 3. Maintenance of irrigation reservoirs, drains, canals or ditches for agricultural and stormwater purposes;
  - 4. Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure safe and efficient accommodation of existing navigational uses;
  - 5. Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or existing authorized location, depth and width. Dredging in Capitol Lake may be authorized upon approval of a management plan by agencies with jurisdiction;
  - 6. Restoration or enhancement of shoreline ecological processes and functions benefiting water quality and/or fish and wildlife habitat;
  - 7. Public access and public water-oriented recreational development and uses, including the construction of piers, docks, and swimming beaches for public use; or
  - 8. Trenching to allow the installation of necessary underground pipes or cables if no alternative, including boring, is feasible, and:
    - a. Impacts to fish and wildlife habitat are avoided to the maximum extent feasible;
    - b. The utility installation does not increase or decrease the natural rate, extent or opportunity of channel migration; and
    - c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
- C. Dredging is prohibited in the *Natural* shoreline environment designation **and in Aquatic designated areas adjacent to shorelands with the *Natural* designation** except where associated with ecological restoration projects.
- D. Dredging and dredge disposal is prohibited on or in archaeological sites that are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.
- E. Dredging for the primary purpose of obtaining material for landfill is prohibited.
- F. The disposal of dredge spoils in open water or on upland sites within shoreline jurisdiction is prohibited unless for beneficial uses such as shoreline restoration or enhancement.
- G. Prohibit any dredging which will damage shallow water habitat used by fish species for migration corridors, rearing, feeding and refuge, unless the project proponent demonstrates that all of the following conditions are met:
  - 1. An alternative alignment or location is not feasible;

**Comment [NL113]:** This change is **recommended** for consistency with Table 7.1 which outlines that aquatic areas are to be treated the same as the adjacent uplands with regard to authorization of shoreline modifications.

2. The project is designed to minimize its impact on the environment; and
  3. The facility is in the public interest.
- H. If the project creates significant unavoidable adverse impacts, the impacts shall be mitigated by creating in-kind habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required. Mitigation shall be in accordance with the mitigation priorities set forth in OMC 18.34.410(B).

### **3.60 18.34.830 - Fill**

Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area water-ward of the Ordinary High Water Mark, in wetlands or other critical areas, or on shorelands in a manner that raises the elevation or creates land above the elevation of the Ordinary High Water Mark. Any fill activity conducted within the shoreline jurisdiction must comply with the following provisions.

### **3.61 18.34.833 - Shoreland Fill**

- A. Fill shall be the minimum necessary to accommodate the proposed use or development or protect it from flooding, and allowed only in conjunction with approved shoreline use and development activities that are consistent with Olympia's Shoreline Program.
- B. Fill shall be permitted only when it can be demonstrated that the proposed action will not:
  1. Result in significant damage to water quality, fish, shellfish, and wildlife habitat;
  2. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities; or
  3. Alter channel migration, geomorphic, or hydrologic processes.
- C. Except for beach feeding, fill shall be designed, constructed, and maintained to prevent, minimize and control all material movement, erosion, and sedimentation from the affected area.
- D. Fill for the construction of transportation facilities is allowed only when there is a demonstrated purpose and need, there are no feasible alternatives, and impacts are mitigated in accordance with mitigation priorities in OMC 18.34.410(B).
- E. Fill shall not be used as a means to increase the allowable building height by increasing the natural or finished grade, except as authorized to meet the flood elevation requirements of OMC Chapter 16.70.
- F. Fill for the sole purpose of creating land area is prohibited.
- G. The excavation of beach material for fill is prohibited.
- H. Fill within critical areas and/or critical area buffers shall comply with this Chapter and the critical areas provisions of Chapter 18.32.
- I. Perimeters of fill shall be designed to eliminate the potential for erosion, and be natural in appearance, ~~and avoid the use of structural stabilization unless demonstrated to be infeasible.~~ Perimeter slopes shall not exceed 1 foot vertical for every 3 feet horizontal unless an engineering analysis has been provided, and the Administrator determines that the landfill blends with existing topography.
- J. Fill shall consist of clean material including sand, gravel, soil, rock or similar material approved by the City. The use of contaminated material or construction debris is prohibited.

**Comment [NL114]:** This change is recommended because provision "K" in this same subsection states that fill shall not be located where shoreline stabilization will be necessary to protect materials placed or removed.

- K. Fill shall not be located where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated to avoid erosion and sedimentation.
- L. Fill within the shoreline jurisdiction shall be allowed in response to increases in sea level subject to all other provisions of this ~~section Master Program~~ and the mitigation sequencing process.

**3.62 18.34.837 – Fill Water-ward of Ordinary High Water Mark**

- A. Fill water-ward of the Ordinary High Water Mark shall be permitted for the following purposes only, with due consideration given to specific site conditions and only as part of an approved use or development:
  1. Port development for water dependent uses where other upland alternatives or structural solutions, including pile or pier supports is infeasible;
  2. Expansion or alteration of transportation facilities where there are no feasible upland alternatives;
  3. Ecological restoration or enhancement such as beach nourishment, habitat creation, or ~~mitigation shoreline restoration~~ when consistent with an approved restoration or mitigation plan;
  4. ~~Disposal of dredge material in accordance with the dredge material management program (DMMP) of the Department of Natural Resources;~~
  - ~~4—5.~~ Construction of protective berms or other structures to prevent the inundation of water resulting from sea level rise shall be allowed ~~in response to increases in sea level~~ subject to all other provisions of this ~~section Master Program~~ and the mitigation sequencing process when there are no other feasible options to protect existing development;
  - ~~5—6.~~ Public access; or
  - ~~6—7.~~ Cleanup of contaminated sites.

- B. Fill shall be the minimum necessary for the intended use or activity.

**3.63 18.34.840 General Moorage (Piers, Docks, Floats, and Buoys) Provisions**

- A. All new or modified structures shall be allowed only in support of an allowed water-dependent or public access use and must comply with all applicable local, state and federal regulations.
- B. New docks, piers and floats shall be located, designed and constructed in accordance with the mitigation sequencing priorities in OMC 18.34.410(B).
- C. Moorage shall be designed and located so as not to constitute a hazard to navigation or other public uses of the water. Docks, piers and floats are prohibited on lakes or marine water bodies where the distance to the opposite shore is 150 feet or less.
- D. The length, width and height of piers, docks and floats shall be no greater than that required for safety and practicality of the intended use. They shall be spaced and oriented in a manner that avoids shading of substrate below and do not create a ‘wall’ effect that would impair wave patterns, currents, littoral drift or movement of aquatic life forms.
- E. Those projects which are found to block littoral drift or cause new erosion of down-drift shoreline shall be required to establish and maintain an adequate long-term beach feeding program. This may

**Comment [NL115]:** This change is **required** in accordance with WAC 173-26-221 (3)(c)(ii), which outlines the criteria for new structural flood hazard reduction measures in shoreline jurisdiction. Fill for a flood berm would be considered a structural flood hazard reduction measure; reference to these criteria in this section makes clear the additional conditions that would apply to any such proposal. See also WAC 173-26-191 (2)(a)(ii)(A), WAC 173-26-221 (3)(b)(i), and required change E – Chapter 2.32(C) - Fill Policies.

**Comment [NL116]:** These changes are **required** in accordance with WAC 173-26-231 (3)(c), which specifies under what conditions or for which purposes fill waterward of the ordinary high water mark can be allowed, and WAC 173-26-221 (3)(c)(ii) outlining when new structural flood hazard reduction measures may be allowed. Renumber provisions.

include artificially transporting sand to the down-drift side of an inlet with jetties; or artificial beach feeding in the case of breakwaters, groins, and weirs.

- F. All piers, docks, floats or similar structures shall float at all times on the surface of the water or shall be of fixed pile construction. Floating structures shall at no time be grounded on the substrate.
- G. All moorage facilities shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or promptly repaired by the owner.
- H. Docks, piers and floats shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long-term. Materials for any portions of the structure that come in contact with the water shall be approved by the appropriate state agency.
- I. Lighting associated with moorage facilities shall be beamed, hooded, or directed to avoid glare on adjacent properties or water bodies. Illumination levels shall be the minimum necessary for safety. Artificial night time lighting shall be the minimum necessary for public safety.
- J. New overwater covered moorage is prohibited.
- K. The design, construction and maintenance of piers and docks shall not restrict any public access or ability to walk along the shoreline. If unavoidable, alternate means of access, such as stairs and/or upland pathways, shall be provided.
- L. Any expansion, alteration, or modification of any moorage structure which results in any increase in horizontal area of the facility shall conform to all requirements of this chapter.

#### **3.64 18.34.842 – Moorage Buoys**

- A. Moorage buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state approved designs that have minimal adverse effects on aquatic ecosystems.
- B. In marine waters, moorage buoys shall not be located water-ward of the outer harbor line or within designated navigation channels where established by the Washington Department of Natural Resources or the U.S. Coast Guard.
- C. Only one moorage buoy shall be allowed per waterfront lot except that a shoreline variance may be sought for additional buoys for public waterfront parks or residential subdivisions where individual lots do not front on the shoreline.
- D. In lakes, moorage buoys shall not be located farther water-ward than existing buoys, or established swimming areas, and shall not interfere with navigation or use of the water.
- E. Moorage buoys must be discernible under normal daylight conditions at a minimum distance of 300 feet and must have reflectors for nighttime visibility.

#### **3.65 18.34.844 – Residential Docks, Piers or Floats**

- A. Shared residential moorage is required unless the applicant demonstrates why shared moorage is not feasible prior to approval of a residential pier, dock, or float. Considerations include but are not limited to proximity to other docks and willingness of adjoining property owners to participate in shared moorage.
- B. Where moorage is proposed for new subdivisions of more than two lots, or new multi-family development of more than two dwelling units, moorage shall be shared between lots or units. .
- C. Shared moorage proposed for lease to five or more upland property owners shall be reviewed as a marina in accordance with the provisions of OMC 18.34.654.

- D. Where individual moorage is allowed, only one type of moorage facility shall be allowed per waterfront lot. The use of residential boat lifts is permitted.
- E. A new joint use pier, dock, or float may be permitted on a community recreation lot shared by a number of waterfront or upland lots. Individual recreational floats (not for moorage) are permitted as long as they are not located farther water-ward than existing floats or established swimming areas.  
  
If moorage is anticipated after initial residential development (including plats, multi-family developments, and mixed use developments), the applicant shall specifically identify and reserve an area for the future moorage.
- F. All docks, piers, and floats shall be painted, marked with reflectors, or otherwise identified so that they are visible during day or night.
- G. Placing fill water-ward of the Ordinary High Water Mark for purposes of constructing a dock or pier is prohibited.

**3.66 18.34.846 - Marine Docks and Piers**

- A. In marine waters, the maximum length of new or expanded piers or docks for private or recreational use shall not exceed 100 feet as measured from the mean higher-high water mark and not exceed a depth of -3 feet as measured from mean lower low water mark. If this is not sufficient depth to reach the desired depth for moorage, a buoy shall be used.
- B. The location, design and construction of new or repaired private or recreational piers or docks in marine waters shall comply with all applicable State and Federal regulations and the following standards:
  - ~~1-~~ **1.** Docks and piers shall be setback from the side property line twenty (20) feet on marine waters, **unless designated for shared use between adjacent property owners;**
  - ~~2-~~ **Only piers or ramps shall be located within the first 30 feet water ward of the Ordinary High Water Mark;**
  - ~~3-~~ **2. Residential Ppiers** shall not exceed 4 feet in width and must incorporate a minimum of 60 percent grating **or the percentage required in a Hydraulic Permit Approval (HPA) from the Department of /fish and Wildlife;**
  - ~~4-~~ **Pilings shall be spaced a minimum of 20 feet apart (lengthwise parallel to the structure) unless the structure is less than 20 feet long for which pilings shall be placed only at the ends of the structure;**
  - ~~5-~~ **3.** The width of ramps connecting the pier and dock shall not exceed 4 feet in width and shall consist of a 100 percent grated surface;
  - ~~6-~~ **4.** Docks shall not rest on the tidal substrate at any time. Stoppers on the pilings anchoring the dock or stub pilings shall be installed so that the bottom of the docks flotation is a minimum of 1 foot above the level of the beach substrate;
  - ~~7-~~ **5.** If a dock is positioned perpendicular to the ramp, a small dock may be installed to accommodate the movement of the ramp due to tidal fluctuations. The dimensions of the small dock shall not exceed 6 feet in width and 10 feet in length;
  - ~~8-~~ **6.** New or modified residential piers and docks as well as watercraft operation and moorage shall be located to avoid physical impacts to aquatic habitat. At a minimum pier and dock

proposals shall ensure that structures are designed and located to protect critical saltwater habitat, and saltwater habitats of special concern as defined by the Department of Fish and Wildlife in WAC 220-660-310;

~~a. No overwater structures or pilings are constructed or installed within 50 feet, as measured horizontally in all directions, from macro algae beds or eelgrass.~~

~~b. No docks or dock supports are constructed or installed within a 4 foot depth elevation between the top of the dock stopper and the elevation of the landward most edge of the macro algae bed or eelgrass. This restriction shall apply to a zone 50 feet as measured on both sides of the dock.~~

~~9. 7.~~ Construction materials shall not include wood treated with creosote, pentachlorophenol or other similarly toxic materials.

C. There is no maximum length and width for commercial or industrial piers or docks; however, such piers and docks may not exceed the minimum size necessary for the intended use. The applicant must demonstrate that the proposed size and configuration is the minimum necessary and complies with all other provisions of this Chapter.

D. No combination of docks and piers on any one property shall exceed 100,000 square feet. Docks, piers, floats and mooring buoys shall not intrude into or over critical saltwater habitats except when the following conditions are met and documented:

1. Avoidance by an alternative alignment or location is not feasible.

2. Including any required mitigation, the project shall not result in a net loss of ecological functions associated with critical saltwater habitat.

3. For public or commercial docks, the public's need for such a structure must be clearly demonstrated.

4. All over-water and near shore developments in marine waters shall conduct an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. Project-specific inventory and survey work shall follow scientifically accepted survey protocols and take place during the appropriate time of the year depending on species present, based on input from resource agencies.

### **3.67 18.34.847 - Fresh Water Docks and Piers**

A. In fresh water, the length of new or expanded piers or docks for private or recreational use shall not exceed fifty (50) feet as measured from the Ordinary High Water Mark.

B. The location, design, and construction of new or repaired private or recreational piers or docks in fresh waters shall comply with all applicable State and Federal regulations and the following standards:

~~1. Only piers or ramps can be located within the first thirty (30) feet water-ward of the Ordinary High Water Mark;~~

~~2. Fingers, platforms and ells cannot be any closer than thirty (30) feet water ward of the Ordinary High Water Mark. The first set of pilings shall be located no closer than eighteen (18) feet from the Ordinary High Water Mark;~~

~~3. 2.~~ Pier and dock surface coverage shall not exceed the following:

**Comment [NL117]:** Generally the changes to this section are **recommended** because when originally inserted in the SMP, the language aligned with proposed language in the Hydraulic Project Application (HPA) rule revisions. However in the final adopted version of the HPA rule, these provisions have been amended. Leaving these requirements in the SMP as written could put project applicants in the position of having to apply for a shoreline variance when there are conflicts between the HPA rules and bulk or dimensional standards in the SMP.

The first change is recommended to provide more flexibility for shared use moorage complying with the regulations in OMC 18.34.844.

**Comment [NL118]:** This change is **required** in accordance with WAC 173-26-221 (2)(iii)(C). See also recommended change EEE – Chapter 3.66 (B)(various) Marine Docks and Piers.

**Comment [NL119]:** Generally the changes to this section are **recommended** because when originally inserted into the SMP, the language aligned with proposed language in the Hydraulic Project Application (HPA) rule revisions. However in the final adopted version of the HPA rule, these provisions have been amended. Leaving these requirements in the SMP as written could put project applicants in the position of having to apply for a shoreline variance when there are conflicts between the HPA rules and bulk or dimensional standards in the SMP.

- a. 480 square feet for single use structures;
- b. 700 square feet for two-party joint use; and
- c. 1,000 square feet for residential pier/docks serving three or more residences.

~~4.~~ **3.** Docks and piers shall not exceed four feet in width, except an additional two (2) feet of width can be allowed without a variance for a property owner with a condition that qualifies for state disable accommodated. Sixty (60) percent of the dock/pier surface area must be grated or the percentage required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife;

~~5.~~ **4.** Docks shall not rest on the fresh water substrate at any time. Stoppers on the pilings anchoring the dock or stub pilings shall be installed so that the bottom of the docks flotation is a minimum of one foot above the level of the beach substrate;

~~6.~~ **5.** Except for docks with floats, the bottom of all structures shall be a minimum of 1-1/2 feet above the water level established by the Ordinary High Water Mark;

~~7.~~ **6.** ~~Docks with f~~Floats or ells shall be limited to one of the following size options and oriented and grated at the percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife:

~~a.~~ Up to 6 feet wide by 20 feet long with a two foot strip of grating down the center;

~~b.~~ Up to 6 feet wide by 26 feet long with grating, providing that there is a 60% open area over the entire ell or float; or

~~c.~~ A single ell, two feet wide by 20 feet long, with 100% grating.

~~8.~~ **7.** Construction materials shall be limited to untreated wood, approved plastic composites, concrete, or steel.

C. Docks and piers shall be setback from the side property line ten (10) feet on fresh water.

D. The required side yard setbacks may be waived with a shared use moorage facility for two or more property owners. The applicant or proponents shall file with the Thurston County Auditor a legally enforceable joint use agreement or other legal instrument that addresses the following as a condition of permit approval:

- ~~1.~~ Apportionment of construction and maintenance expenses;
- ~~2.~~ Maintenance responsibilities for the facility and associated upland area in perpetuity by identified responsible parties;
- ~~3.~~ Easements and liability agreements;
- ~~4.~~ Use restrictions; and
- ~~5.~~ The easement must acknowledge that each property owner is giving up the right to construct a separate single-family pier.

**3.68 18.34.848 – Float Standards**

A. Single property owner recreational floats shall not exceed 64 square feet. Multiple property owner recreational floats shall not exceed 96 square feet.

B. The standards for private recreational floats are as follows:

1. Floats anchored offshore and used for residential recreational uses shall comply with the following standards:
    - a. Applicants shall contact the Washington Department of Natural Resources to inquire on the need for an aquatic lease for locating recreational floats within state aquatic areas; and
    - b. When feasible floats shall be removed seasonally and placed in an appropriate unvegetated upland location.
  2. Floats shall be located as close to shore as feasible without interfering with natural beach processes or negatively affecting aquatic vegetation.
  3. Floats shall not rest on the substrate at any time. **In marine waters, F floats** shall be located (anchored) at sufficient depth to maintain a minimum of one foot of draft between the float and the beach substrate at low tide.
- C. Public recreational floats shall be the minimum size and dimensions necessary for the intended use, e.g., boat moorage, swimming area, public access. In no case shall a single float exceed 200 square feet.
- D. Public and private recreational floats **width** shall comply with the following standards:
1. ~~Floats with a width of six feet or less shall incorporate a minimum of 30% functional grating into the dock surface area;~~
  2. Floats shall be oriented and with a width greater than six feet or more shall incorporate a minimum of 50% functional grating into the dock float surface area at a percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife; and
  2. ~~For R recreational floats shall be anchored utilizing either helical screw or "duckbill" an embedded anchor; anchor lines shall not rest on or disturb the substrate at any time.~~
- E. Recreation floats must be discernible under normal daylight conditions at a minimum of 100 yards and must have reflectors for nighttime visibility.
- F. Only one recreational float shall be allowed per waterfront lot except that a shoreline variance may be sought for additional floats for public waterfront parks or residential subdivisions where individual lots do not front on the shoreline.

**Comment [NL120]:** The changes to this section are **recommended** because when originally inserted into the SMP, the language aligned with proposed language in the Hydraulic Project Application (HPA) rule revisions. However in the final adopted version of the HPA rule, these provisions have been amended. Leaving these requirements in the SMP as written could put project applicants in the position of having to apply for a shoreline variance when there are conflicts between the HPA rules and the SMP.

### **3.69 18.34.850 – Shoreline Restoration and Enhancement – Intent**

Restoration is the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Enhancement includes actions performed within an existing degraded shoreline, critical area and/or buffer to intentionally increase or augment one or more functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species.

### **3.70 18.34.855 – Shoreline Restoration and Enhancement - General Provisions**

- A. Restoration and enhancement shall be allowed on all shorelines, and carried out by the applicant/proponent in accordance with an approved restoration/enhancement plan. Such plans

shall be designed, constructed and maintained in accordance with the policies and regulations of Olympia's Shoreline Program. Restoration and enhancement projects restore the natural character and ecological functions of the shoreline; and must be consistent with the implementation of a comprehensive restoration plan approved by the City and/or Department of Ecology, or the Administrator must find that the project provides an ecological benefit and is consistent with Olympia's Shoreline Program.

- B. The City shall coordinate with other local, state, and federal regulatory agencies, tribes, and non-government organizations to ensure that mitigation actions are likely to be successful and achieve beneficial ecological outcomes.
- C. Shoreline property owners that remove hard-armoring or otherwise restore the shoreline prior to development may apply such restoration toward any mitigation required at the time of development provided that:
  - 1. The applicant/property owner can provide conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;
  - 2. The City can confirm via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions;
  - 3. The work has occurred on the same site within five years of the proposed development; and
  - 4. The applicant/property owner provides assurances that the restoration area will be preserved in perpetuity. Such assurance can be in the form of a notice on title, conservation easement, or similar mechanism.
- D. Shoreline restoration and enhancement may be permitted if the applicant demonstrates that no significant change to sediment transport will result and that the restoration or enhancement will not adversely affect shoreline ecological processes, water quality, properties, or habitat.
- E. Shoreline restoration and enhancement projects shall use best available science and management practices.
- F. Restoration shall be carried out in accordance with an approved shoreline restoration plan and in accordance with the policies and regulations of Olympia's Shoreline Program.
- G. Restoration and enhancement projects shall be designed to minimize maintenance over time.
- H. Restoration and enhancement projects shall be designed, constructed, and maintained to avoid the use of shoreline stabilization measures. Where such measures cannot be avoided, bioengineering shall be used rather than bulkheads or other stabilization measures, unless it can be demonstrated that there are no feasible options to achieve the intended result. **Restoration and enhancement projects that include shoreline modification actions shall be authorized provided the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.**
- I. Restoration and enhancement projects shall not extend water-ward more than the minimum necessary to achieve the intended result and shall not result in the creation of additional upland area.
- J. ~~Restoration and enhancement projects shall not significantly interfere with the normal use of the navigable waters of the state without appropriate mitigation. In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under~~

**Comment [NL121]:** This change is **required** in accordance with WAC 173-26-231 (3)(g). See also required change F – Chapter 2.34 (M) Restoration and Enhancement Policies.

shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this Master Plan.

K. Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.

### **3.71 18.34.857 – Instream Structures**

- A. Instream structures are permitted only when necessary for a restoration or enhancement project, to improve fish passage, or for permitted ~~road~~ transportation or utility crossings and subject to the following requirements:
- B. Instream projects shall be evaluated for their potential adverse impacts upon the physical, hydrological, and biological characteristics as well as effects on instream/riparian habitat;
- C. Instream structures and associated facilities shall be designed, constructed and maintained in a manner that will not degrade the quality of affected waters or instream/riparian habitat value, and minimizes adverse impacts to surrounding areas;
- D. The location and design of instream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species;
- E. Instream structures shall be designed based on an analysis of the reach or reaches to avoid the need for structural shoreline armoring; and
- F. Instream structures and associated facilities shall provide for the protection and preservation of natural and cultural resources including but not limited to, sensitive areas such as wetlands, waterfalls, erosion/accretion shore forms, and natural scenic vistas.

### **3.72 18.34.860 - Shoreline Stabilization - Intent**

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural processes such as current, flood, tides, wind, or wave action.

These include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, erosion and groundwater management, and planning and regulatory measures to avoid the need for structural stabilization. Structural methods include ‘hard’ and ‘soft’ measures, defined as:

- A. Hard structural shoreline stabilization (also referred to as ‘hard’ armoring) means erosion control measures using hardened structures that armor and stabilize the shoreline from further erosion. Examples of hard armoring include concrete, boulders, dimensional lumber or other materials to construct linear, sometimes vertical faces. These include bulkhead, rip-rap, groins, revetments, and similar structures.
- B. Soft structural shoreline stabilization (also referred to as ‘soft’ armoring) means erosion control practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Examples of soft armoring include a mix of gravel, cobbles, boulders, logs and native vegetation placed to provide stability in a non-linear, sloping arrangement.

**Comment [NL122]:** These changes are **recommended** to detail the process for seeking relief from SMP development standards and use regulations when a shoreline restoration project causes or would cause a landward shift in the OHWM, and the circumstances under which a substantial development permit is not required (RCW 90.58.580).

**Comment [NL123]:** This change is **recommended** to recognize trails in addition to roads (as transportation facilities).

### 3.73 18.34.862 – Shoreline Stabilization - New Development

A. New shoreline use and development including new lots shall be located and designed to eliminate the need for concurrent or future shoreline stabilization to the extent feasible Lots created through subdivision processes shall not require shorelines stabilization for reasonable development to occur, as demonstrated through, if this is not feasible based upon a geotechnical analysis of the site and shoreline characteristics, soft structural protection measures shall be given preference over hard structural protection measures. The use of hard structural stabilization measures will only be allowed when it is demonstrated that soft structural measures are not feasible and that they will not New development that would require shoreline stabilization which results in significant impacts to adjacent or down current properties will not be allowed.

~~B. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.34.410(B) to minimize adverse impacts to shoreline ecological functions and processes. Protection of adjacent property and existing development shall also be considered in the design and location of structural stabilization measures.~~

~~C.~~ B. New non-water dependent development, including single-family residences, that includes new structural shoreline stabilization will not be allowed unless all of the conditions below can be met::

1. The need to protect the primary structure from damage due to erosion ~~caused by natural or man-made processes~~ is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal actions, currents, and waves Normal sloughing, erosion of steep bluffs, or shoreline erosion itself without such analysis is not a demonstration of need;
2. The erosion is not being caused by upland conditions such as loss of vegetation and drainage;
3. Nonstructural measures such as placing the development further from the shoreline, planting vegetation, or installing onsite drainage improvements are not feasible or sufficient;
4. The erosion control structure will not result in a net loss of shoreline ecological functions or processes;

~~5. Impacts to sediment transport shall be avoided or minimized, and~~

~~6. The structure will not cause adverse impacts to adjacent or down current properties and shoreline areas.~~

D. New water dependent development ~~on steep slopes or bluffs shall be set back so that shoreline stabilization will not be needed or new structural shoreline stabilization for existing water dependent development will not be allowed unless all of the conditions in C above are met. However, the considerations of placing the development further from the shoreline and erosion being caused by natural processes do not apply to water dependent development that can demonstrate its need for a waterfront location due to the nature of its operations.~~

### 3.74 18.34.864 – New or Expanded Shoreline Stabilization Measures

A. New or enlarged structural stabilization measures are prohibited except where necessary to protect or support legally existing primary structures or shoreline uses, in support of water dependent uses, for human safety, for restoration or enhancement activities, or remediation of contaminated sites.

B. Structural shoreline armoring for the sole purpose of leveling or extending property or creating or preserving residential lawns, yards, or landscaping shall be prohibited. Where hard shoreline armoring already exists, property owners are encouraged to remove it and replace with soft armoring, or if conditions allow, return the shoreline to a natural condition.

**Comment [NL124]:** The SMP Guidelines at WAC 173-26-231 (3)(a)(iii)(A) **require** a geotechnical analysis for new subdivisions and for new development on steep slopes or bluffs. As written, provision A can be interpreted as requiring a geotechnical analysis for **every** new shoreline use and development, including uses or development that are in shoreline jurisdiction but may not actually be located on the water. The recommended change reflects the language from the Guidelines.

**Comment [NL125]:** It is **recommended** that provision B be moved to section 3.76, where all of the other provisions relating to the design of shoreline stabilization measures are located.

**Comment [NL126]:** These changes are **required** in accordance with WAC 173-26-231 (3)(a)(iii)(A) and (B). As written, this section is mixing standards from the Guidelines that relate to new development with standards that relate to new structural shoreline stabilization measures for existing development. The changes also address provisions in WAC 173-26-231 (3)(a)(iii)(B) that had not been addressed in the SMP.

See also recommended change JJJ – Chapter 3.73 (A) – Shoreline Stabilization New Development.

**Comment [NL127]:** The first change is **required** in accordance with WAC 173-26-231 (3)(a)(iii)(B)(III).

C. New or enlarged structural shoreline stabilization measures to protect legally existing primary structures or shoreline uses are prohibited unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves, or boat wakes. Further:

1. Normal sloughing, erosion of steep bluffs, shoreline erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis that demonstrates a danger exists to an existing development or residence, is not a demonstration of need;
2. The geotechnical analysis shall evaluate onsite drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization;
3. The design of the stabilization structure shall take into consideration erosion rates, onsite drainage issues, vegetation enhancement, and low-impact development measures as a means of reducing erosion;
4. The analysis must demonstrate that nonstructural measures, planting vegetation, or installing onsite drainage improvements are not feasible or not likely to be sufficient; and
5. The erosion control structure shall not result in a net loss of shoreline ecological functions.

**6. In geologically hazardous areas, stabilization structures or measures may only be allowed when no alternative, including relocation or reconstruction of existing structures, is found to be feasible and less expensive than the proposed stabilization measure.**

- D. The use of hard structural stabilization measures such as bulkheads are prohibited unless demonstrated in a geotechnical analysis that soft structural stabilization measures (bioengineering) or non-structural measures (increased setbacks) are not feasible.
- E. Where structural shoreline stabilization measures are necessary, the size of the stabilization structure shall be the minimum necessary. The Administrator may require that the size and design of the structure be modified to reduce impacts to ecological functions.
- F. Where adverse impacts to shoreline ecological functions cannot be avoided, mitigation shall be required in accordance with mitigation sequence priorities set forth in OMC 18.34.410(B).
- G. In order to determine appropriate mitigation measures, the Administrator may require environmental information and analysis, including documentation of existing conditions, ecological functions and anticipated impacts, along with a restoration mitigation plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.
- H. Shoreline stabilization measures that incorporate ecological restoration or enhancement through the placement of rocks, sand or gravel, and native shoreline vegetation are strongly encouraged. Soft shoreline stabilization that restores ecological functions may be permitted water-ward of the Ordinary High Water Mark.
- I. Following completion of shoreline modification activities, disturbed areas shall be restored using native vegetation (see OMC 18.34.495 for specific provisions).
- J. Publicly financed or subsidized erosion control measures shall not restrict public access except where such access is inappropriate or infeasible, and shall incorporate public access and ecological restoration to the extent feasible.

**Comment [NL128]:** The second change is **required** in accordance with WAC 173-26-231 (3)(a)(iii)(B)(I).

**Comment [NL129]:** The third change is **required** in accordance with WAC 173-26-221 (2)(c)(ii)(D).

**Comment [NL130]:** This change is **recommended** for consistency with the definitions and purposes of the different types of plans outlined in section 3.3 (C). Mitigation plans are related to a specific activity or development and is a more appropriate reference given the language in the rest of this provision.

### **3.75 18.34.866 – Shoreline Stabilization - Replacement and Repair**

- A. For purposes of this section, “replacement” means the construction of a new structure to perform a shoreline stabilization function to replace an existing structure which no longer adequately serves its purpose. Additions to or increase in size of existing shoreline stabilization measures shall be considered new structures.
- B. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves. The Administrator may waive the requirement for a geotechnical analysis if the applicant demonstrates through the use of photographs, site or grading plans, or other evidence that nonstructural measures are not feasible.
- C. The replacement structure shall be designed, located, sized, and constructed to assure no net loss of shoreline ecological functions.
- D. Replacement walls or bulkheads shall not encroach water-ward of the Ordinary High Water Mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. Where a net loss of ecological functions associated with critical saltwater habitat would occur by leaving the existing structure, it must be removed as part of the replacement measure.
- E. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted water-ward of the Ordinary High Water Mark.

### **3.76 18.34.868 – Design of Shoreline Stabilization Measures**

- A. Shoreline stabilization measures shall be designed by a Professional Engineer, registered as such in the State of Washington and shall conform to all applicable City and state policies and regulations, including the Washington State Department of Fish and Wildlife criteria governing the design of shoreline stabilization.
- B. The size of shoreline stabilization structures shall be the minimum necessary to protect the primary use or structure.
- C. To protect their structural integrity, shoreline stabilization measures shall be designed, constructed, and maintained to allow drainage of surface or groundwater away from the structures.
- D. Shoreline stabilization structures shall be located to tie in flush with existing bulkheads on adjacent properties, except when adjoining bulkheads do not comply with the standards set forth in this Chapter.
- E. Stairs may be built as an integral component of a bulkhead but shall not extend water-ward of the bulkhead unless necessary to directly access a pier or dock.
- F. Materials used for shoreline stabilization structures shall be durable, erosion resistant, and not harmful to the environment. The following materials shall be prohibited: demolition debris, derelict vehicles, tires, concrete rubble, or any other materials that contain toxic substances or create visual blight along the shoreline.

~~G. The use of revetments shall be prohibited for shoreline stabilization structures.~~

H. G. Where hard armoring is approved, materials shall be used in the following order of priority:

**Comment [NL131]:** This change is recommended because as defined in the SMP, half of the Budd Inlet shorelines could be considered as having rip rap revetments. Additionally, one of the concepts put forth in the “City of Olympia Engineers Response to Sea Level Rise” technical report is an armored slope earthen berm, which is essentially a rip rap revetment.

1. Large stones, with vegetation planted in the gaps. Stone should not be stacked any steeper than a 3:1 slope;
  2. Timbers or logs that have not been treated with toxic materials;
  3. Stacked masonry block;
  4. Cast-in-place reinforced concrete.
- H. Bioengineering is a preferred method of protecting upland property and structures or to maintain access to an authorized shoreline use. Bioengineering combines structural, biological and ecological concepts to construct living structures that stabilize the soil to control erosion using live plant materials as a main, but not only, structural component.
1. Bioengineering shall generally be used when a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as within three years.
  2. Bioengineering projects shall incorporate all of the following:
    - a. All bioengineering projects shall use a diverse variety of native plant materials, including trees, shrubs, and grasses, unless demonstrated infeasible for the particular site;
    - b. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that all vegetation is fully re-established within three years. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable;
    - c. **A If no VCA is established in OMC 18.34.620 Table 6.3,** minimum five (5) foot vegetated buffer shall be provided landward of the project limits to allow bank protection plantings to become established. The buffers shall not be disturbed for a minimum of three years.
    - d. All bioengineering projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired; and
    - e. All construction and planting activities shall be scheduled to minimize impacts to water quality, fish and wildlife, and aquatic and upland habitat and to optimize survival of new vegetation.

**Comment [NL132]:** This change is recommended for clarity and would use an already established concept to avoid future ambiguity.

J. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.34.410(B) to minimize adverse impacts to shoreline ecological functions and processes. Protection of adjacent property and existing development shall also be considered in the design and location of structural stabilization measures.

**Formatted:** Highlight  
**Formatted:** Justified, Indent: Left: 0", Hanging: 0.25"

**Comment [NL133]:** DOE Director Recommendation – It is recommended that this provision be moved from section 3.73 (B) to section 3.76 (I), where all of the other provisions relating to the design of shoreline stabilizations measures are located.

**Formatted:** Highlight  
**Formatted:** Highlight

**3.77 18.34.870 - Shoreline Stabilization Reports**

A. Geotechnical reports prepared pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions.

- B. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft armoring.

**3.78 18.34.80072 - Breakwaters, Jetties, Groins, and Weirs – General Provisions**

- A. Jetties and breakwaters are prohibited except as an integral component of a water-dependent use such as marina or port, and only when there is a documented need for the protection of navigation, a harbor, water dependent industrial activities, a marina, fisheries or habitat enhancement project, or a comprehensive beach management plan.
- B. Where permitted, floating, portable, or submerged breakwater structures, or smaller discontinuous structures shall be used only when it has been demonstrated that they will not impact shoreline ecology or processes such as littoral drift or cause erosion of down drift beaches.
- C. The location and design of breakwaters, jetties, groins, and weirs shall be subject to mitigation sequencing outlined in OMC 18.34.410(B).
- D. The design of breakwaters, jetties, groins and weirs shall conform to all applicable requirements established by the Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers.
- E. The design of breakwaters, jetties, groins and weirs shall be certified by a registered civil engineer.
- F. Breakwaters, jetties, groins and weirs shall not intrude into critical salt water habitats or into salmon and steelhead habitats unless the following conditions are met:
1. An alternative location or alignment is not feasible;
  2. The project is designed to minimize its impacts on the environment;
  3. All adverse impacts will be mitigated;
  4. The project, including associated mitigation, will result in no net loss of ecological functions associated with the critical saltwater habitat;
  5. The facility is in the public interest and consistent with the state’s interest in resource protection and species recovery, and
  6. If the project results in significant unavoidable adverse impacts, the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute.
- G. Breakwaters, jetties, groins and weirs shall be constructed of suitable materials. The use of solid waste, junk or abandoned automobiles, asphalt or any building demolition debris is prohibited.
- H. The movement of sand or beach materials shall be evaluated during permit review for breakwaters, jetties, groins and weirs. Those projects which are found to block littoral drift or cause new erosion of down-drift shoreline shall be required to establish and maintain an adequate long-term beach feeding program. This may include artificially transporting sand to the down-drift side of an inlet with jetties; or artificial beach feeding in the case of breakwaters, groins, and weirs.
- I. Breakwaters, jetties, groins and weirs shall incorporate provisions for public access when feasible.

**J. Breakwaters, jetties, groins and weirs shall be designed to protect critical areas and shall provide for mitigation according to the mitigation sequence in OMC 18.34.410 (B).**

**Comment [NL134]:** This change is **recommended** for a consistent numbering scheme – OMC 18.34.800 already exists, and .805 would be out of sequence.

**Formatted:** Normal, Space After: 10 pt, Line spacing: Multiple 1.15 li

**Comment [NL135]:** This change is **required** in accordance with WAC 173-26-231 (3)(d).

**3.79 18.34.89574 – Breakwaters, Jetties, Groins, and Weirs - Environment Designations**

Breakwaters, jetties, groins and weirs are permitted only adjacent to the *Urban Intensity* and *Port Industrial* shoreline environments, are subject to a shoreline conditional use permit, and shall be approved only when there is a documented need for the protection of navigation, a harbor, water dependent industrial activities, a marina, fisheries, or habitat enhancement project.

[The following new Sections 18.34.900, 18.34.910, 18.34.920 shall be added to the Olympia Municipal Code.]

**3.80 18.34.900 – Existing Buildings and Uses within Shorelines**

- A. Subject to the provisions of this Chapter, a use, lot, or structure lawfully existing prior to the effective date of this Shoreline Program that chapter or any amendment thereto, which is rendered nonconforming may continue and may also be repaired, remodeled, and/or restored in the manner and to the extent that it existed upon the effective date of this Shoreline Program the relevant ordinance.
- B. Existing roads, trails, utility lines and similar linear facilities, together with any associated facilities such as pump stations or stormwater treatment ponds, which do not conform to the provisions of Chapter 18.34 may expand within existing easements and rights-of-ways. Modification or expansion outside of existing easements or rights-of-way which would otherwise be prohibited may be authorized by the decision maker upon finding there is no feasible alternative, the development is necessary for the public welfare, as proposed and designed including appropriate mitigation, and the development is not likely to result in a net loss of shoreline ecological functions.

**Comment [NL136]:** This change is recommended for a consistent numbering scheme – OMC 18.34.800 already exists, and .805 would be out of sequence.

**Comment [NL137]:** This change is required in accordance with WAC 173-26-191(2)(a)(ii)(A); this provision must clearly outline it is referring to the effective date of this SMP. “This chapter” and “the relevant ordinance” are vague and indistinct.

**3.81 18.34.910 – Alteration of Nonconforming Structures in the Shoreline Jurisdiction**

- A. Shoreline Structures – The following regulations apply to nonconforming structures located in the shoreline jurisdiction:
  - 1. Alteration of structures located landward of the Ordinary High Water Mark within a required shoreline setback is limited to:
    - a. For structures located partially within the shoreline setback, alterations shall be limited to the addition of height and expansion of the building footprint into the areas outside the shoreline setback.
    - b. For structures located entirely within the shoreline setbacks, alterations shall be allowed for the addition of height or expansion of the building footprint on the upland side of the structure, or both.
    - c. Interior and exterior remodels and the addition of upper stories are permitted. Except as provided above, such additions shall not extend beyond the existing or approved building footprint. Expansion of nonconforming structures that further encroach on the Ordinary High Water Mark setback by decreasing the distance between the structure and the Ordinary High Water mark shall require a variance.
    - ~~d. Alterations shall comply with applicable development regulations in the Olympia Municipal Code.~~
  - 2. Overwater Structures – Alteration of structures located water-ward of the Ordinary High Water Mark is prohibited except:

**Comment [NL138]:** These changes are recommended for clarity and consistency with language used throughout the rest of the document and to correct grammatical errors. See also required change UU.

**Comment [NL139]:** DOE Director Recommendation – These changes are recommended for clarity and consistency and to correct grammatical errors. See also required change UU – Chapter 3.81 (A).

**Comment [NL140]:** DOE Director Recommendation – These changes are recommended for clarity and consistency and to correct grammatical errors. See also required change UU – Chapter

**Formatted:** Highlight

**Formatted:** Highlight

**Comment [NL141]:** DOE Director Recommendation – These changes are recommended for clarity and consistency and to correct grammatical errors. See also required change UU – Chapter 3.81 (A) changes.

**Formatted:** Highlight

- a. Alterations that do not increase or expand the building footprint are permitted; and
- b. Existing covered moorage may be maintained, repaired or replaced pursuant to WAC 173-27-040.
- c. Except for modifications required by the Washington Department of Natural Resources for light penetration, alterations to the footprint or building envelope are prohibited.

3. ~~Other Regulations applicable to OMC 18.37.092(A)(1) and (2).~~

- ~~a. Actions shall not result in a net loss of shoreline ecological functions and processes, and~~
- ~~b. The applicant shall obtain all required permits or approvals prior to construction.~~
- ~~c. Structures that are damaged and house a nonconforming use may be re-established in accordance with OMC 18.37.920.~~

4. Alteration of structures located landward of the ordinary high water within a required vegetation conservation area (VCA) that include expansion of the building footprint shall not be permitted. Interior and exterior remodels and the addition of upper stories are permitted.

4-5. All alterations shall comply with applicable development regulations in the Olympia Municipal Code.

B. Unintentionally damaged or destroyed **nonconforming** structures.

- 1. In the event that a structure or building that does not conform to the shoreline setback is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, the structure may be restored within the existing footprint.
- 2. In the event that a structure or building housing a nonconforming use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such damage or destruction shall not constitute a discontinuation of the nonconforming use. In the event that a structure or building housing an existing use considered a “conditional” use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such use may be re-established without obtaining a conditional use permit.
- 3. In order to take advantage of this section, a complete application for a building permit must be submitted within one year of the unintended event that caused the destruction of the structure. The applicant loses their rights under this subsection if the building permit lapses without construction of the structure proposed under the building permit.

**3.82 18.34.920 – Existing Nonconforming Shoreline Uses and Lots**

A. Conversions Nonconforming uses in shoreline jurisdiction shall be governed by OMC 18.37.060(A) and (E), except expansion of nonconforming shoreline uses. The hearings examiner may authorize expansion of a use that does not conform to the Master Program provided the applicant can demonstrate all of the following:

- 1. A nonconforming use may be changed to a permitted use at any time. The use clearly requires a specific site location on the shoreline not provided for under this Chapter, and
- 2. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this Chapter. Expansion of uses in shoreline jurisdiction that are also nonconforming with zoning use restrictions shall not be authorized.

**Comment [NL142]:** With regard to the changes to provision #3, the first change (strike out) is **recommended** because this language is unnecessary and the reference is inaccurate. Sub-provisions a and b can be consolidated into one sentence. The change (strike out) of sub-provision c is **recommended** because it is repetitive of provision B(2) that follows and the reference to subsections .920 is incorrect.

**Comment [NL143]:** This change is **required** in accordance with WAC 173-26-191(2)(a)(ii)(A), for consistency with OMC 18.34.493.

**Formatted:** Strikethrough

**Comment [NL144]:** The change to the title of this section is **recommended** for clarity. Furthermore, the addition of “lots” is recommended because nonconforming lots are not addressed in the SMP. If they are not addressed in the SMP, they will be subject to the requirements in WAC 173-27-080. The change to reference the zoning code (OMC 18.37.060) is recommended to avoid repeating word-for-word an entire section that already exists in the OMC and applies city-wide.

**Comment [NL145]:** Ecology **recommends** moving the resumption and expansion of nonconforming uses language into this section. With regard to resumption, criteria and a process for resuming discontinued nonconforming uses exist in the City’s zoning code. For both, necessitating Ecology review by requiring a shoreline conditional use permit does not appear to add value to the process.

3. The Hearing Examiner may grant a conditional use permit that allows a nonconforming use to change to another nonconforming use that would not normally be allowed in the district in which it is located; provided, that the following can be clearly demonstrated by the applicant:
  - a. The structure that houses the existing nonconforming use cannot be used for any permitted uses because of its particular design; and
  - b. The proposed use will be more compatible with the permitted uses of the use district than the existing use; and
  - c. Provisions have been made to safeguard the adjoining properties against any detrimental effects that might result from allowing the proposed use.

3. ~~4.~~ Historic properties. The Hearing Examiner also may grant a conditional use permit ~~for ten years~~ to allow the following uses to change to another residential or commercial use that is not typically allowed in the district in which it is located:

- a. An existing commercial or institutional structure in a residential zone when such structure is on the National, State or Olympia Heritage Register; or
- b. An existing commercial or institutional structure within a National, State or Olympia Historic District, excluding the South Capital Historic Register; or
- c. An existing commercial or institutional structure conditioned on restoration of a structure to achieve Register status; provided, that the following can clearly be demonstrated by the applicant:
  - 1) The structure cannot be utilized for any of the uses normally permitted within that district; and
  - 2) The proposed use will not alter the historic features documented at the time of Register placement; and
  - 3) Provisions have been made to safeguard the adjoining properties and the neighborhood against any detrimental effects that might result from allowing the proposed use, subject to the requirements in 18.48.040, Additional Conditions.

**Formatted:** Indent: Left: 0.25", Hanging: 0.25", No bullets or numbering

**B. ~~Discontinuation-Nonconforming lots in shoreline jurisdiction shall be governed by OMC 18.37.080~~**

1. Except as provided by OMC 18.34.920(A), a nonconforming use, when abandoned or discontinued, shall not be resumed. Discontinuation or abandonment occurs under any of the following:
  - a. When land used for a nonconforming use shall cease to be used for that particular use for twelve (12) consecutive months; or
  - b. When a building designed or arranged for a nonconforming use shall cease to be used for that particular use for twelve (12) consecutive months; or
  - c. When a building designed or arranged for a conforming use but used for a nonconforming use shall cease to be used for such nonconforming use for twelve (12) consecutive months.
2. The Hearing Examiner may, by conditional use permit, allow a discontinued or abandoned use to resume operations if it can be proven that all of the following conditions exist:

- a. That discontinuation or abandonment was caused by a condition over which the owner and operator of such use had no control; and
- b. That it is impossible for the owner to change the use of the premises to a permitted use without causing a hardship to himself; and
- c. That resumption of the nonconforming use will not have a detrimental effect on surrounding properties.



## City Council

### Approval of an Option to Purchase Real Estate Owned by D.R. Horton, an Approximate 74 Acre Parcel Commonly Known as Trillium/Ashton Woods

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 6.B  
**File Number:** 15-0734

---

**Type:** contract   **Version:** 1   **Status:** Other Business

---

#### Title

Approval of an Option to Purchase Real Estate Owned by D.R. Horton, an Approximate 74 Acre Parcel Commonly Known as Trillium/Ashton Woods

#### Recommended Action

##### City Manager Recommendation:

Move to approve the Option to Purchase Real Estate from D.R. Horton consisting of 74 acres (more or less) commonly known as Trillium/Ashton Woods.

#### Issue:

Whether to approve an Option to Purchase Real Estate to secure an opportunity for the City to purchase the D.R. Horton property for a future park site.

#### Staff Contact:

Paul Simmons, Parks, Arts and Recreation Director, 360.753.8462  
Mark Barber, City Attorney, 360.753.8223

#### Presenter(s):

Paul Simmons, Parks, Arts and Recreation Director

#### Background and Analysis:

SSHI, LLC (the D.R. Horton Company) owns a 74-acre parcel located at 3355 Morse-Merryman Road SE; Assessor's Parcel No. 11830420000 (see attachment titled Property Location Map). This parcel is immediately adjacent to, and east of, the City's existing 22.6-acre LBA Park. In 2013 the City purchased a 5.3-acre portion of this (originally 79.3-acre) property to locate the City's planned Southeast Olympia Water Supply reservoir.

The City desires to purchase the remaining 74-acre parcel to expand its inventory of passive open space and secure additional athletic field-oriented community park acreage, both of which can be accommodated on this site. Additional efficiencies are presented by the parcels location adjacent to the existing developed support facilities at LBA Park. In addition, field investigations indicate that athletic field drainage problems currently being experienced at LBA Park can be solved in a cost-

effective manner by draining these fields into a former quarry excavation located nearby on the D.R. Horton parcel.

The D.R. Horton Company is concurrently seeking approval of a 400-lot preliminary plat for “Ashton Woods,” proposing 238 single-family lots and 162 townhome lots on the same property. The D.R. Horton Company has submitted a preliminary plat proposal and will continue to proceed in that process.

Staff has concluded negotiations with the Seller, and has prepared the Option to Purchase Real Estate agreement that is attached to the Staff Report. A summary of the Option’s terms are below:

***Option Terms:***

The initial cost of the Option is \$250,000, with the first Option term expiring on March 30, 2016. The Option can be extended to June 30, 2017, with payment of an additional \$250,000 option fee on or before March 30, 2016. If the Option is exercised and the balance of the acquisition price is paid in full prior to June 30, 2016, the total acquisition price will be \$5,000,000. If the option is exercised on or after July 1, 2016, and before June 30, 2017, the acquisition price will increase to \$6,000,000.

In either case, at closing, all Option to Purchase fees will be credited towards the purchase price of the property. The balance of the purchase price is anticipated to be paid with a combination of revenue from the proposed Olympia Metropolitan Park District and the 2004 Voted Utility Tax. As a condition of the agreement, D.R. Horton will maintain the ability to advance entitlements to the property (the ability to continue to pursue approval of the Preliminary Plat for Ashton Woods).

**Neighborhood/Community Interests (if known):**

In 2013, a citizen’s group known as the “LBA Woods Coalition” formed to encourage the City to acquire both this parcel and an adjacent 71.86-acre property on Boulevard Road. These properties have served for many years as “de-facto” open spaces for neighboring residential areas. The coalition wants the City to purchase both sites before they are developed and presented City Council with a petition containing over 5,000 signatures supporting the acquisition.

Additionally, a series of 8 neighborhood meetings with a total of 160 participants were conducted to provide input for the 2016 Parks, Arts and Recreation Plan. The most dominant themes of these meetings were:

- Buy the LBA Woods property (this site and the Boulevard Road site);
- Acquire land in general while it is available; and
- Buy open space/natural areas - provide nearby access to nature

The 2015 Random Sample Survey of 759 respondents, conducted for the upcoming 2016 Parks, Arts and Recreation Plan, indicated that “trails” and “natural open space” were the highest priority for new projects.

In summary, purchasing some or all of the LBA Woods has been identified as a high priority throughout the extensive public process facilitated to update the Parks, Arts & Recreation Plan.

**Options:**

1. Authorize the City Manager to sign the Option to Purchase Real Estate agreement for the D.R. Horton property.
2. Do not authorize the Option agreement.
3. Direct staff to seek other options to satisfy the City's need for community park and open space acreage.

**Financial Impact:**

Staff recommends that the first \$250,000 option payment be paid with funds from the 2004 Voted Utility Tax Acquisition Fund and that if necessary, the second option payment be made with funds from the Open Space Impact Fee account. Staff also recommends that if the option is executed, that the City utilize a combination of funds generated from the 2004 Voted Utility Tax and the proposed Olympia Metropolitan Parks District.

In addition to these funding sources, Thurston County is currently considering a funding application through the Conservation Futures program to support this project. The City also plans to pursue Recreation and Conservation Office grants in both the Local Parks and Habitat categories in the 2016 grant application cycle.

## OPTION TO PURCHASE REAL ESTATE

This OPTION TO PURCHASE REAL ESTATE (“Option” or “Agreement”) is made by and between SSHI LLC dba D.R. HORTON SEATTLE DIVISION (“Optionor”), and the CITY OF OLYMPIA, a municipal corporation organized under the laws of the State of Washington (“Optionee”), together known as the parties (the “Parties”), effective as of the Effective Date (as defined below in Section 3.9.15).

A. Optionor is the owner of certain real property located in the City of Olympia, Thurston County, Washington, legally described on Exhibit A-1 attached hereto (“Ashton Woods Property”).

B. Optionee has determined that Optionor’s Ashton Woods Property is suitable property for a public park for recreation and open space purposes.

C. The signatories to this Agreement are authorized to execute associated documents, to correct legal descriptions if need be, and to correct scrivener’s errors and other errors or omissions that are otherwise in substantial conformance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Optionor and Optionee agree as follows:

**1. Property.** Optionor hereby agrees to and does grant to Optionee an Option to Purchase the fee title rights to certain real property legally described herein on Exhibit A-1, subject to the terms and conditions set forth herein, and Optionee hereby agrees to and does purchase an option from Optionor for purchase of the Property legally described on Exhibit A-1, subject to the terms and conditions set forth herein:

**1.1 Land.** Approximately 74 acres, more or less, constituting the entire site commonly known as Ashton Woods Property located in the City of Olympia, Thurston County, Washington, shown in a sketch on Exhibit A-2 attached hereto (the “Land”), which includes the fee title to an approximately 55-foot wide (2.76 acres) Permanent Easement across a portion of the Optionor’s real property which easement had been previously granted and conveyed to Optionee for purposes of an access road and waterline easement.

**1.2 Appurtenances.** This Option shall include all rights, privileges and easements appurtenant to the Land owned by Optionor, including without limitation any and all easements, rights-of-way and other appurtenances used in connection with the beneficial use and enjoyment of the Land (all of which are collectively referred to as the “Appurtenances”);

The Land and Appurtenances described in **Section 1** above are herein collectively referred to as the “Property.”

**2. Option Terms.** The terms of the Option shall be as follows:

**2.1 Term of Option.** The initial term of this Option shall be for a period expiring on March 30, 2016 and this Option may be renewed for one additional period expiring on June 30, 2017, as set forth in this Section.

**2.2 Purchase Price for the Property.** If Optionee exercises its Option on or before **June 30, 2016** to purchase the Property, the purchase price for the Property (the "Purchase Price") shall be **Five Million Dollars (\$5,000,000.00)**. If Optionee exercises its Option on or after July 1, 2016 and before June 30, 2017 to purchase the Property, the Purchase Price shall be **Six Million Dollars (\$6,000,000.00)**.

**2.3 Payment for Option and Application to Purchase Price.** Optionee shall pay to Optionor **Two Hundred and Fifty Thousand Dollars (\$250,000.00)** for the first Option period ending on March 30, 2016. If Optionee wishes to extend its Option for an additional period ending on June 30, 2017, Optionee shall deliver written notice thereof along with an additional payment of **Two Hundred Fifty Thousand Dollars (\$250,000.00)** to Optionor prior to expiration of the first Option period. If Optionee fails to so notify and make payment when due, its right to extend the Option shall expire. All Option payments made hereunder shall be non-refundable, except as expressly provided herein or in the event of a default by Optionor hereunder.

Should Optionee exercise its Option to Purchase the Property, the amount of all Option payments paid to Optionor shall be applied to and deducted from the Purchase Price for the Property.

**2.4 Option to Purchase shall be a Covenant.** The Option granted by Optionor to Optionee shall be a covenant running with the Land and shall be binding on all present and future owners and occupiers of the Property, their successors, heirs and assigns. This Option shall be recorded with the Auditor of Thurston County, Washington on the Option Closing Date (as defined below).

**2.5 Option Closing Date and Deposit of Documents.** Subject to the satisfaction of the contingencies set forth in Sections 2.7 and 2.8 below, the Closing for this Option to Purchase shall be at the offices of the "Escrow Agent" on a mutually acceptable date not later than thirty (30) days after the Effective Date of this Option (the "Option Closing Date"), unless otherwise agreed to by the Parties. The Escrow Agent shall be Thurston County Title Insurance Company, in its capacity as Escrow Agent, located at 105 8<sup>th</sup> Ave SE, Olympia, Washington 98501. On the Option Closing Date, Escrow Agent shall record the executed Option to Purchase Real Estate between Optionor and Optionee and the Option amount for the first Option period shall be delivered by Optionee to the Escrow Agent for delivery to Optionor. Optionor and Optionee will use their reasonable best efforts, consistent with and subject to their respective rights and obligations as otherwise set forth in this Option, to cause Closing for the Option to Purchase to occur within thirty (30) days of the Effective Date.

**2.6 Exercise of Option to Purchase.** The Optionee may exercise this Option to Purchase by timely giving notice to Optionor or its successors, heirs or assigns, as provided in Section 3.8 below, of Optionee's decision to purchase the Property upon the terms set forth herein. If Optionee fails to timely exercise the Option to Purchase, this Agreement shall terminate and no longer be effective.

**2.7 Title and Survey Matters for Option.** Optionee has ordered a preliminary commitment for an ALTA owner's standard coverage title insurance policy issued by Thurston County Title Insurance Company ("Title Company"), describing the Property, showing all matters pertaining to the Property and Optionor as vested fee owner in the Property. Nothing herein shall be construed as imposing any cost obligation upon the Optionor. In the event that the initial title binder contains unacceptable title exceptions to Optionee, then Optionee shall notify Optionor within fifteen (15) days after the Effective Date. Optionor shall notify Optionee thereafter within ten (10) days if Optionor agrees, in its sole discretion, to remove or otherwise cure such objectionable matters (failure to timely respond shall be deemed an election not to remove or cure). If Optionor elects to remove or cure any matters, Optionor shall not be obligated to remove or cure unless and until Optionee exercises the Option to Purchase under Section 2.6. If Optionor elects or is deemed to have elected not to remove or cure any

matter objected to, then this Option shall terminate and neither Optionor nor Optionee shall thereafter have any further liability or obligation under this Option. All title matters referenced in the initial preliminary commitment and not objected to by Optionee within fifteen (15) days after the Effective Date shall be deemed "Pre-Approved Title Matters." Optionor agrees that it shall not, except as permitted herein, further encumber title to the Property at any time during the period of the Option in any manner that would materially and adversely affect title to the Property (as determined by Optionee in its reasonable discretion), otherwise Optionee may terminate this Agreement and shall receive a refund of its Option payments.

**2.8. Initial Inspection; Environmental Reports.** Optionor shall not be required to provide Optionee any environmental reports that Optionor has related to any hazardous materials or chemicals regulated by the Model Toxics Control Act concerning the Property, including phase 1 and 2 environmental assessments, until the Sale Closing Date. Optionee, however, shall be entitled to perform any of its own tests or other studies concerning all aspects of the Property, including without limitation the environmental condition of the Property, within the period after the Effective Date and prior to the Option Closing Date in Section 2.5, and shall have the right and permission for its employees, representatives, consultants and agents to enter upon the Property or any part thereof at all reasonable times for the purpose, at Optionee's cost and expense, of making all tests and/or studies of the Property that Optionee may wish to undertake, including, without limitation, soils tests, toxic and hazardous waste studies, and surveys, provided, however, that Optionee shall schedule all access to the Property in advance with Optionor and shall be required to obtain Optionor's written consent prior to conducting any invasive testing, which consent shall not be unreasonably withheld. Optionee shall further indemnify and hold harmless Optionor from and against any mechanic's or other liens or claims, causes of action, costs, expenses, or liabilities that may be filed or asserted against the Property or Optionor arising out of or relating to any actions taken by Optionee or its employees, agents, consultants or representatives in connection with the Property. Optionee, to the extent necessary, shall reasonably restore the Property at Optionee's sole cost and expense to its conditions immediately prior to any access or testing by Optionee or its employees, agents, consultants and representatives. If Optionee performs a phase I environmental assessment on the Property as a part of its initial inspection and such phase I recommends or otherwise indicates that a phase II environmental assessment or other supplemental environmental testing should be conducted, the Parties agree that the Option Closing Date shall be extended to the date that is seven (7) business days after Optionee receives the results back on its phase II or supplemental testing (so long as Optionee promptly orders the phase II or additional testing), in order to provide adequate time for issuance of reports or laboratory analysis of testing results obtained by Optionee or its employees, representatives, consultants and agents. The environmental and all other studies and assessments of the Property shall be subject to Optionee's satisfaction in all aspects of the Property for Optionee's intended use, in Optionee's sole discretion. If Optionee is not satisfied with its environmental and other studies and assessments of the Property prior to the Option Closing Date, then Optionee may terminate this Agreement in its sole discretion and neither Optionee nor Optionor shall have any further liability or obligation under this Option.

**2.9. Physical Condition to Remain Substantially the Same.** The physical condition of the Property, including forest cover, shall remain substantially the same as it is at the time of Optionee's signature to this Agreement. If at any time during the Option period, the Land is cleared, logged, mined, or the forest cover is otherwise materially disturbed, Optionee is entitled to the return of its option payments made under Section 2.3. Optionor is entitled to proceed with the permitting of its proposed development of the Property. If any governmental authority requires Optionor to record any matters against the Property in connection with Optionor's permitting of its proposed development of the Property, such matters shall be deemed Pre-Approved Title Matters, so long as they do not materially and adversely affect Optionee's intended use of the Property for a public park (as determined in Optionee's reasonable discretion).

**2.10 Additional Terms.** The additional terms in **Sections 3.8 and 3.9**, and all subsections respectively thereunder, shall also apply to this Option to Purchase.

**3. After Exercise of Option to Purchase.** If Optionee timely exercises the Option to Purchase, the Parties shall enter into a "Purchase and Sale Agreement" for such sale, based upon the following terms and conditions, within thirty (30) days after Optionee's exercise of its Option to Purchase the Property. The Parties agree that such Purchase and Sale Agreement shall be entered into solely for the purpose of memorializing the following terms and conditions and shall not contain any new or modified terms or conditions that are contrary to those set forth below, unless agreed upon by the Parties in their sole and absolute discretion. The Parties acknowledge and agree that all material terms and conditions of a purchase and sale agreement are set forth below.

**3.1 Payment of Purchase Price upon Exercise of Option to Purchase.** On the "Sale Closing Date" (defined below), Optionee as "Buyer" (or the "City of Olympia" or the "City") shall deposit with Escrow Agent the amount of the Purchase Price less any amounts to be credited against the Purchase Price pursuant to the Option. The Purchase Price shall be paid to Optionor as "Seller" ("SSHI LLC dba D.R. Horton Seattle Division") at the time of the Sale Closing Date by wire transfer, or by certified, cashier's, treasurer's or bank check(s) based on Seller's instruction to the Escrow Agent. Within three (3) business days following the execution and delivery of the Purchase and Sale Agreement, Buyer and Seller shall open escrow with Escrow Agent, by depositing with Escrow Agent a copy of the Purchase and Sale Agreement and Buyer's notice exercising the Option to Purchase.

**3.2. Closing Date for Purchase and Sale Agreement.** The Closing shall be held at the offices of the Escrow Agent on a date that is mutually acceptable to the Parties not later than thirty (30) days after the exercise of the Option to Purchase and complete execution (including Seller's Corporate Approval) of the Purchase and Sale Agreement (the "Sale Closing Date"), unless otherwise agreed by the Parties. Closing shall occur when the Deed (as hereinafter defined) to Buyer is recorded and the Purchase Price is delivered to the Escrow Agent for delivery to Seller. Seller and Buyer will use their reasonable best efforts, consistent with and subject to their respective rights and obligations as otherwise set forth in this Purchase and Sale Agreement, to cause the Sale Closing to occur on or not later than the Sale Closing Date, which shall be not later than thirty (30) days after the Option to Purchase has been exercised and complete execution of the Purchase and Sale Agreement.

**3.3. Title and Survey Matters.**

**3.3.1 Title Binder.** Promptly after exercising the Option to Purchase, Buyer shall order an updated preliminary commitment for an ALTA owner's standard coverage title insurance policy issued by Title Company describing the Property, showing all matters pertaining to the Property and listing Buyer as the prospective named insured, in a form acceptable to Buyer, updating the initial preliminary commitment to the exercise date of the Option to Purchase and Purchase and Sale Agreement. Such updated preliminary commitment, supplemental reports and true, correct and legible copies of all documents referred to in such preliminary commitment and supplemental reports as conditions or exceptions to title to the Property are collectively referred to herein as the "Title Binder." Nothing herein shall be construed as imposing any cost obligation upon Seller.

**3.3.2 Title Review.** Within seven (7) business days of Buyer's receipt of the updated commitment ("Title Review Period"), Buyer shall review the Title Binder, and, shall notify Seller what new exceptions to title since the initial commitment, if any, are unacceptable. Any new exceptions that are not disapproved by Buyer in writing during the Title Review Period and all Pre-Approved Title Matters shall constitute "Permitted Exceptions." Seller shall remove any or all exceptions that are not

Permitted Exceptions prior to the Sale Closing Date or shall notify Buyer that it will not remove such exceptions; if Seller shall fail to remove any such exceptions objected to by Buyer from title prior to the Sale Closing Date, and Buyer states in writing that it is unwilling to take title subject thereto, then the Purchase and Sale Agreement shall terminate and neither Seller nor Buyer shall thereafter have any further liability or obligation under the Purchase and Sale Agreement. However, if Seller causes any new exception to title on the Property after the Option Closing Date (other than Pre-Approved Title Matters) that materially and adversely affects title to the Property (as reasonably determined by Buyer), then Buyer may terminate the Purchase and Sale Agreement and, in such event, Buyer is entitled to receive return of the Option payments paid to Seller. Seller shall not be required to incur any expense in order to render its title marketable or remove any matter disapproved by Buyer; provided that, Seller shall not refuse to remove any disapproved item that involves only payment of a monetary obligation secured by a lien or other encumbrance on the Land.

**3.3.3 Title Policy.** At Sale Closing, Seller and Buyer shall cause Title Company to issue an Owner's standard coverage title insurance policy (ALTA 2006 Owners Policy) ("Title Policy") to Buyer, at Buyer's cost. The Title Policy shall (a) be issued in the amount of the total Purchase Price and (b) insure fee simple, indefeasible title to the Property in Buyer, subject only to the Permitted Exceptions and the standard printed exceptions. The Title Policy may contain endorsements as Buyer may require; provided that Buyer shall be solely responsible for all additional costs and requirements to obtain such endorsements.

#### **3.4. Conditions to Buyer's Obligations.**

**3.4.1 Continued Inspection of the Property.** For the sole purpose of confirming that no aspect of the Property has materially and adversely changed from the date of Buyer's initial inspection and assessment of the Property under Section 2.8 above, Buyer and its employees, representatives, consultants and agents shall have the right and permission from the Option Closing Date through the Sale Closing Date (or earlier termination of the Option or Purchase and Sale Agreement) to enter upon the Property or any part thereof at all reasonable times and from time to time for the purpose, at Buyer's cost and expense, of making all tests and/or studies of the Property that Buyer may wish to undertake, including, without limitation, soils tests, toxic and hazardous waste studies, surveys, structural studies and review of zoning, fire, safety and other compliance matters; provided, however, that Buyer shall schedule all access to the Property in advance with Seller and shall be required to obtain Seller's written consent prior to conducting any invasive testing. Buyer shall further indemnify and hold harmless Seller from and against any mechanic's or other liens or claims, causes of action, costs, expenses, or liabilities that may be filed or asserted against the Property or Seller arising out of or relating to any actions taken by Buyer or its employees, agents, consultants or representatives in connection with the Property. To the extent necessary, Buyer shall reasonably restore the Property at its sole cost and expense to its condition immediately prior to any access or testing by Buyer or its employees, agents, consultants and representatives. Buyer's exercise of its Option to Purchase and any subsequent purchase of the Property shall be subject to its satisfaction that no aspect of the Property has materially and adversely changed for Buyer's intended use from the date of Buyer's initial inspection and assessment of the Property under Section 2.8 above, in Buyer's reasonable discretion. Buyer shall be required to satisfy itself of this condition prior to exercising the Option to Purchase under Section 2.6. Upon exercising the Option to Purchase, Buyer shall be deemed to have accepted the condition and all aspects of the Property. Buyer acknowledges that the sale of the Property shall be strictly on an "As-Is" basis, with all faults and defects, whether known or unknown, and Buyer agrees that, as of the Sale Closing Date, Buyer shall be deemed to have waived and released Seller from any and all claims, suits, demands, liabilities, damages and other obligations arising in connection with or related to the Property, other than those arising as a result of any intentional wrongful act of Seller. Notwithstanding the foregoing, in the event of a material and adverse change occurring upon or relating to the condition of the Property after exercising the Option

to Purchase and before the Sale Closing, then Buyer may terminate the Option to Purchase and Purchase and Sale Agreement and Buyer shall be entitled to a refund of its Option payments.

Buyer hereby waives the right to any seller disclosure statement which would otherwise be required under RCW Chapter 64.06. Further, in the event a seller's disclosure statement or any portion thereof is required under RCW Chapter 64.06, pursuant to RCW 64.06.040(3), Buyer hereby waives any right of rescission of the Purchase and Sale Agreement that Buyer might otherwise have under RCW Chapter 64.06.

**3.4.2 Additional Closing Conditions.** Buyer's obligation to purchase the Property shall also be subject to the following conditions that must be satisfied as of Closing:

(i) All representations and warranties of Seller contained in the Purchase and Sale Agreement shall be true, accurate and complete at the time of the Sale Closing as if made again at such time;

(ii) Seller shall have performed all obligations to be performed by it hereunder on or before the Sale Closing (or, if earlier, on or before the date set forth in the Purchase and Sale Agreement for such performance);

(iii) At Sale Closing, title to the Property shall be in the condition required by **Section 3.3** herein and in the Purchase and Sale Agreement and Escrow Agent shall deliver the Title Policy to Buyer; and

(iv) At Closing, the physical condition and forest cover of the Property shall be substantially the same as on the date the Option is signed by Optionee, ordinary wear and tear excepted.

(v) The Purchase and Sale Agreement must be approved by the City of Olympia's City Council.

If the conditions set forth in this **Section 3.4** are not satisfied as of Sale Closing and Buyer does not waive the same, Buyer or Seller may terminate the Purchase and Sale Agreement, and thereafter neither Buyer nor Seller shall have any further liability one to the other under the Purchase and Sale Agreement, and, except as provided in the following sentence, Buyer shall be entitled to receive return of the Option payments paid to Seller. If the City Council does not approve a Purchase and Sale Agreement containing the terms and conditions agreed to herein, failure of such condition shall not entitle Buyer to receive a return of its Option payments. In such event, Optionor shall be entitled to retain the Option payments.

**3.5 Seller's Representations.** Seller is a limited liability company duly formed and validly existing under the laws of the State of Delaware, and is authorized to conduct business in the State of Washington. Seller has all necessary power and authority to enter into the Purchase and Sale Agreement, subject to Seller's Corporate Approval requirements set forth in **Section 3.9.16** below. The Purchase and Sale Agreement shall constitute the legal, valid, binding and enforceable obligation of Seller and Buyer.

**3.6 Seller Provision of Further Information.** From the Option Closing Date to the Sale Closing Date, Seller will notify Buyer of each event of which Seller becomes aware materially affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

**3.7 Closing in the Purchase and Sale Agreement.**

**3.7.1 Time and Place.** Provided that all the contingencies set forth in the Purchase and Sale Agreement have been previously fulfilled, the Sale Closing shall take place at the place and time determined as set forth in **Section 3.2** above.

**3.7.2 Documents to be Delivered by Seller.** For and in consideration of, and as a condition precedent to, the payment to Seller of any of the Purchase Price, Seller shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

(i) **Deed.** A statutory warranty deed (“Deed”), conveying to Buyer title to the Property, free and clear of all liens, encumbrances, conditions, easements, assignments, and restrictions, except for the Permitted Exceptions, in the form attached hereto as **Exhibit B**.

(ii) **Title Documents.** Such other documents, including, without limitation, certificates of good standing as shall be reasonably required by the Title Company (at no cost or additional liability to Seller) as a condition to its insuring Buyer’s fee simple title to the Property free of any exceptions, other than the Permitted Exceptions, and any other documents reasonably requested by Title Company to close the sale. Seller shall also obtain and provide proof of conveyance back to Buyer of all rights conveyed by the Bargain and Sale Mineral Deed conveyed to DRH Energy, Inc., recorded with the Thurston County Auditor on January 8, 2007, and re-recorded on July 19, 2007.

(iii) **Authority.** Such evidence as the Title Company shall require as to authority of Seller to convey the Property to Buyer.

**3.7.3 Delivery by Buyer.** Buyer shall deliver the Purchase Price to Seller at Sale Closing and any other documents reasonably requested by Title Company to close the sale.

**3.7.4 Payment of Costs.** Notwithstanding the foregoing, Seller and Buyer shall pay their own respective costs incurred with respect to the consummation of the purchase and sale of the Property including, without limitation, attorneys’ fees. Notwithstanding the foregoing, Buyer shall pay the premium for the Owner’s Title Policy to be issued by Title Company to Buyer, the fee to record the Deed, and the escrow fee. Seller shall also pay any excise tax due upon the sale of the Property.

**3.7.5 Property Taxes.** In the event Seller has prepaid any taxes on the Property as of the date of Sale Closing, Seller shall be entitled to a pro rata refund on the amount paid pursuant to RCW 84.60.050.

**3.7.6 Monetary Liens.** Seller shall pay or cause to be satisfied at or prior to Sale Closing all recorded monetary liens on or with respect to all or any portion of the Property, including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements.

**3.7.7 Possession.** Possession and use of the Property shall be delivered to Buyer at Sale Closing.

**3.8 Notices.** Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "**Notices**") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such Notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such Notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such Notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such Notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Seller: D. R. Horton, America's Builder  
12910 Totem Lake Blvd, N.E., Suite 220  
Kirkland, WA 98034  
Attn: Kevin Capuzzi, Senior VP/Division and Shasta Smith, Esq.  
E-mail: [kcapuzzi@drhorton.com](mailto:kcapuzzi@drhorton.com);  
[stsmith@drhorton.com](mailto:stsmith@drhorton.com)  
Phone: 425-821-3400; Fax: 425-814-2638

With copies to: D. R. Horton, West Region  
501 W. Broadway, Suite 1200  
San Diego, CA 92101  
Attn.: William E. Mayer, Esq.  
E-mail: [wemayer@drhorton.com](mailto:wemayer@drhorton.com)  
Phone: 619-849-4947

D. R. Horton, Inc.  
301 Commerce Street, Suite 500  
Fort Worth, TX 76102  
Attn: Ted I. Harbour, Esq. and Mark Karnes, Esq.  
E-mail: [tedharbour@drhorton.com](mailto:tedharbour@drhorton.com);  
[mkarnes@drhorton.com](mailto:mkarnes@drhorton.com)  
Phone: 817-390-8200; Fax: 817-390-1709

Buyer: City of Olympia  
P.O. Box 1967  
Olympia, WA 98507-1967  
Attn: Mark Barber, City Attorney  
E-mail: [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)  
Phone: 360-753-8338; Fax 360-570-3791

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

**3.9 Miscellaneous.**

**3.9.1 Applicable Law and Venue.** The Option and Real Estate Purchase and Sale Agreement shall in all respects, be governed by the laws of the State of Washington. Venue for any lawsuits concerning this agreement shall be in Thurston County Superior Court.

**3.9.2 Further Assurances.** Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations under the Option and Purchase and Sale Agreement, to carry out the intent of the parties hereto.

**3.9.3 Modification or Amendment, Waivers.** No amendment, change or modification of the Option or Purchase and Sale Agreement shall be valid, unless in writing and signed by all of the parties hereto. Except as otherwise expressly set forth in this Section, the Option or Purchase and Sale Agreement may only be amended, modified, or changed by a traditional written document properly executed by Seller and Buyer (including Seller's Corporate Approval). Such amendment may be transmitted by e-mail, facsimile, or other method permitted by the provisions for giving notice in the Section 3.8. Except as otherwise expressly set forth in this Section with respect to execution by an Authorized Officer, (1) Seller does not assent or agree to and will not be bound by any electronic signature or other electronic record, and (2) Buyer and Seller agree that the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act, and any other laws applicable to contracting electronically do not and shall not apply to the execution of the Option and Purchase and Sale Agreement or any amendment hereto. Buyer and Seller acknowledge and agree that execution of the Option and Purchase and Sale Agreement or any amendment to the Option and Purchase and Sale Agreement by an Authorized Officer for the purpose of Corporate Approval may be accomplished by electronic signature utilizing DocuSign or any similar technology. No waiver of any breach of any covenant or provision in the Option and Purchase and Sale Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in the Option and Purchase and Sale Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

**3.9.4 Successors and Assigns.** All of the terms and provisions contained in the Purchase and Sale Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and permitted assigns. Buyer shall not be permitted to assign the Option or the Purchase and Sale Agreement, or any part thereof, to any other party.

**3.9.5 Entire Agreement.** The Option and Purchase and Sale Agreement shall constitute the entire understanding and agreement of the Parties with respect to their subject matters and any and all prior agreements, understandings or representations with respect to such subject matters are hereby canceled in their entirety and are of no further force or effect. The Parties do not intend to confer any benefit under the Option and Purchase and Sale Agreement to any person, firm or corporation other than the Parties.

**3.9.6 Attorneys' Fees.** Should either party bring suit to enforce the Option or Purchase and Sale Agreement, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit.

**3.9.7 Construction.** Captions are solely for the convenience of the Parties and are not a part of the Option or Purchase and Sale Agreement. The Option and Purchase and Sale Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. If the date on which Buyer or Seller is required to take any action under the terms

of the Option or Purchase and Sale Agreement is not a business day, the action shall be taken on the next succeeding business day.

**3.9.8 Partial Invalidity.** If any term or provision of the Option or Purchase and Sale Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of Option or the Purchase and Sale Agreement shall not be affected thereby; and each such term and provision of the Option or Purchase and Sale Agreement shall be valid and be enforced to the fullest extent permitted by law.

**3.9.9 Survival.** The covenants, agreements, representations and warranties made in the Option or Purchase and Sale Agreement shall survive the Option or Sale Closing Dates unimpaired and shall not merge into the Deed and the recordation thereof.

**3.9.10 Finders' or Brokers' Fees.** Seller and Buyer each hereby represent and warrant to the other that no broker, agent or finders' fees or commissions, or other similar fees, are due or arising in connection with any of the transactions contemplated by the Option or Purchase and Sale Agreement. Optionor/Seller and Optionee/Buyer each hereby agree to indemnify, defend and hold the other harmless from and against any loss, liability, damage, cost, damage, claim or expense, including interest, penalties and reasonable attorneys' fees, that the other party shall incur or suffer because of any claim by a broker, agent, or finder claiming by, through, or under such indemnifying party, whether or not such claim is meritorious, for any compensation with respect to the entering into of the Option or Purchase and Sale Agreement, the sale and purchase of the Property, or the consummation of the transactions contemplated herein.

**3.9.11 Time.** Time is of the essence of every provision of the Option and Purchase and Sale Agreement.

**3.9.12 Force Majeure.** Performance by Seller or Buyer of their obligations under the Option or Purchase and Sale Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

**3.9.13 No Individual Liability.** In no event shall any shareholder, officer, director, member, partner, affiliate, agent or employee of Optionor/Seller or any of Optionor's/Seller's affiliates be or be held liable or responsible in any way for the obligations or liabilities of Optionor/Seller under the Option or Purchase and Sale Agreement.

**3.9.14 Counterparts.** The Option or Purchase and Sale Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one agreement; but in making proof of the Option or Purchase and Sale Agreement, it shall not be necessary to produce or account for more than one such counterpart. Additionally, (i) the signature pages taken from separate individually executed counterparts of the Option or the Purchase and Sale Agreement may be combined to form multiple fully-executed counterparts; and (ii) a facsimile signature or an electronically scanned signature shall be deemed to be an original signature for all purposes. All executed counterparts of the Option or Purchase and Sale Agreement shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same agreement either as Option or Purchase and Sale Agreement.

**3.9.15 Effective Date.** The term, “**date of this Agreement**”, or “**date hereof**”, or “**Effective Date**”, as used herein, shall mean the later of the following dates: (1) the date of Buyer’s signature; (2) the date of Seller’s signature; (3) the date of the Corporate Approval of Seller; or (4) the date of approval by the City of Olympia’s City Council.

**3.9.16 CORPORATE APPROVAL OF SELLER. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, NEITHER THE OPTION NOR PURCHASE AND SALE AGREEMENT NOR ANY AMENDMENT THERETO, SHALL BE A VALID AND ENFORCEABLE OBLIGATION OF OPTIONOR/SELLER UNLESS THE OPTION OR PURCHASE AND SALE AGREEMENT AND AMENDMENT IS EXECUTED BY EITHER ONE OF DONALD R. HORTON, DAVID AULD, MICHAEL MURRAY, OR BILL WHEAT, WITHIN 10 BUSINESS DAYS OF THE EXECUTION OF THE OPTION OR PURCHASE AND SALE AGREEMENT OR SUCH AMENDMENT BY OPTIONEE/BUYER AND OPTIONOR’S/SELLER’S REPRESENTATIVES.**

**3.9.17 Release of Option.** If Optionee fails to timely exercise its Option to Purchase or should the Purchase and Sale Agreement terminate for any other reason hereafter, Optionee/Buyer shall promptly execute and deliver to Optionor/Seller a termination and release of the Option to Purchase or Purchase and Sale Agreement in recordable format in order for Optionor/Seller to clear title of the obligations hereunder.

**3.9.18 Default.** If Optionee/Buyer defaults under any material provision of the Option to Purchase or Purchase and Sale Agreement and does not cure such material default after a ten (10) day notice and opportunity to cure is given by Optionor/Seller, Optionor/Seller may terminate the Option or Purchase and Sale Agreement by notice to Optionee/Buyer and Optionor/Seller shall be entitled to retain the Option payments made hereunder, as its sole and exclusive remedy, except for the provisions set forth in Section 3.9.6 above. If Optionor/Seller defaults under any material provision of the Option or Purchase and Sale Agreement and does not cure such material default after a ten (10) day notice and opportunity to cure is given by Optionee/Buyer, Optionee/Buyer may terminate the Option or Purchase and Sale Agreement by notice to Optionor/Seller and Optionee/Buyer shall be entitled to receive a refund of the Option payments made hereunder, as its sole and exclusive remedy, except for the provisions set forth in Section 3.9.6 above.

[Signatures follow on next page.]

DATED as of the date first set forth above.

SELLER:

SSHI LLC, a Delaware limited liability company,  
dba D.R. Horton

By: SHLR of Washington, Inc., a Washington  
corporation, its manager

By \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

By \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

SELLER's CORPORATE APPROVAL:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

An Officer of Purchaser Not an Individual

Date of Execution: \_\_\_\_\_,

BUYER:

The City of Olympia, a Washington municipal  
corporation

By \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

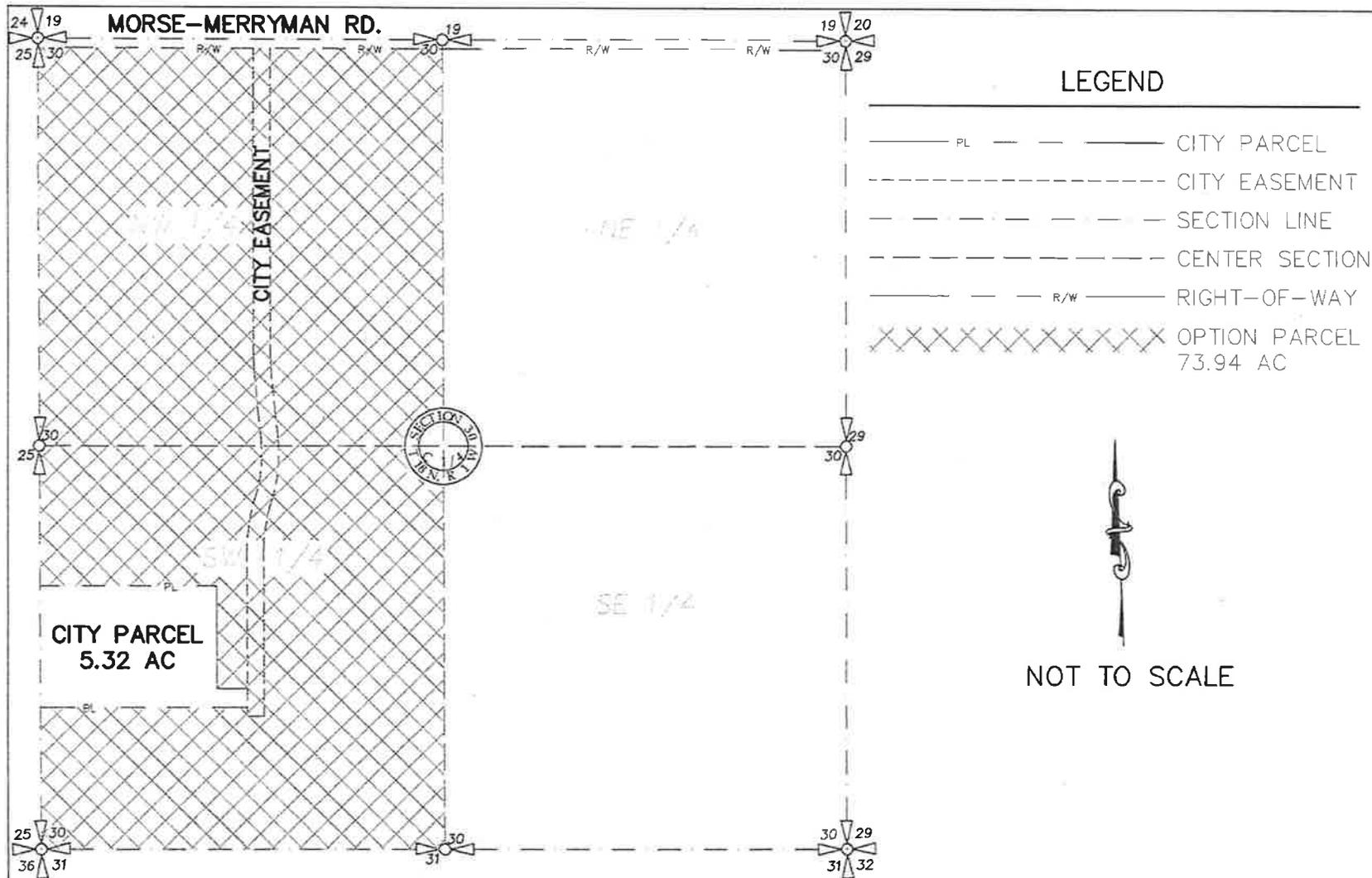


City Attorney

**EXHIBIT A-1**  
**Ashton Woods Property Legal Description**

**The West Half of the Southeast Quarter of Section 30, Township 18 North, Range 1 West, W.M.; EXCEPTING therefrom the North 30 Feet for Morse-Merryman Road; ALSO EXCEPT that portion conveyed to the City of Olympia by deed recorded January 22, 2014 under Auditor's File No. 4377516, records of Thurston County, Washington.  
Situate in the County of Thurston, State of Washington.**

**EXHIBIT A-2**  
**Sketch of Land**



	PROJECT NO.	CITY OF OLYMPIA EXHIBIT "A2" WEST HALF OF THE SOUTHEAST QUARTER SECTION 30, T. 18 N., R. 1 W., W.M.	DRAWING NAME
DRAWN LFC	DATE		ASHTON
QC REVIEW LFC	JUNE 2015		SHEET 1 OF 1
SCALE N.T.S.			



# Morse-Merryman Parcel

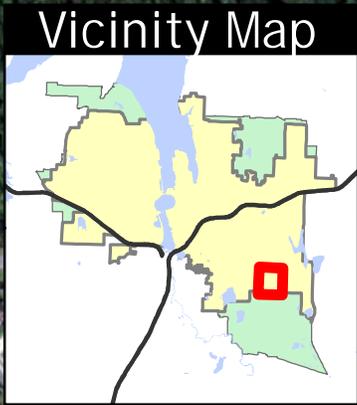
73.98 Acres

City of Olympia | Capital of Washington State



LBA Park

City-Owned Property  
(Log Cabin Road Reservoir)  
5.32 Acres



0 210 420 Feet 1 inch = 400 feet

Map printed 6/29/2015  
For more information, please contact:  
Olympia Parks, Arts and Recreation Department  
olympiaparks@ci.olympia.wa.us  
(360) 753.8380

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





## City Council

### Oral Report - Update from the Mayor and Mayor Pro Tem on Status of the Convening Committee and Charter

**Agenda Date:** 7/21/2015  
**Agenda Item Number:** 6.C  
**File Number:** 15-0735

---

**Type:** report **Version:** 1 **Status:** Other Business

---

#### Title

Oral Report - Update from the Mayor and Mayor Pro Tem on Status of the Convening Committee and Charter

#### Recommended Action

##### City Manager Recommendation:

Receive update from the Mayor and Mayor Pro Tem

#### Report

##### Presenter(s):

Stephen H. Buxbaum, Mayor  
Nathaniel Jones, Mayor Pro Tem

#### Background and Analysis:

Council authorized the Mayor and Mayor Pro Tem to draft a charter and identify a convening group. They will report on progress.

Relevant excerpt from June 16, 2015 Council meeting minutes:

Mayor Buxbaum reported on a Community Forum he attended at the Risen Faith Church regarding the May 21 officer shooting. He referred to a recent memo he sent to Councilmembers regarding options and recommendations to move forward as a community.

Council agreed to direct the Mayor to reach out to the cities of Lacey and Tumwater to write a letter to the Thurston County Law & Justice Committee asking them to look into issues, including race, poverty, and privilege as it relates to the justice system.

Council also agreed that the Mayor and Mayor Pro Tem work to establish a convening group of 5-7 diverse members of the community who can help set up forums for education purposes.

Mayor Buxbaum noted he and Mayor Pro Tem Jones will work on drafting a charter for the convening group and will get that out to staff and Councilmembers as soon as possible.