



Meeting Agenda

Land Use & Environment Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Thursday, April 15, 2021

5:30 PM

Online and Via Phone

Register to Attend:

https://us02web.zoom.us/webinar/register/WN_uQWAXnZJTICOpITpO9ysmw

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **APPROVAL OF AGENDA**

4. **PUBLIC COMMENT**

(Estimated Time: 0-15 Minutes)

During this portion of the meeting, community members may address the Committee for up to two (2) minutes regarding the Committee's business meeting topics.

5. **APPROVAL OF MINUTES**

5.A [21-0366](#) Approval of March 18, 2021 Land Use & Environment Committee Meeting Minutes

Attachments: [Minutes](#)

6. **COMMITTEE BUSINESS**

6.A [21-0328](#) Briefing on Tenant Opportunity to Purchase Ordinances

Attachments: [TOPO4THEPEOPLE Coalition Recommendations Olympia](#)
[Link to TOPO4thpeople.org](#)

6.B [21-0309](#) Shoreline Master Program Periodic Review

Attachments: [Project Webpage](#)
[Final Draft SMP](#)
[Final Draft CAO](#)
[Ecology Initial Determination](#)
[Response to Public Comments](#)
[Amendments Proposed after Public Hearing Summary](#)
[Additional Public Comments](#)

6.C [21-0348](#) Short Term Rental Regulations

Attachments: [Short Term Rental web page](#)

7. REPORTS AND UPDATES

8. ADJOURNMENT

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City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

Land Use & Environment Committee
**Approval of March 18, 2021 Land Use &
Environment Committee Meeting Minutes**

Agenda Date: 4/15/2021
Agenda Item Number: 5.A
File Number:21-0366

Type: minutes **Version:** 1 **Status:** In Committee

Title

Approval of March 18, 2021 Land Use & Environment Committee Meeting Minutes



Meeting Minutes - Draft

Land Use & Environment Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Thursday, March 18, 2021

5:30 PM

Online and Via Phone

1. **CALL TO ORDER**

Chair Madrone called the meeting to order at 5:30 p.m.

2. **ROLL CALL**

Present: 3 - Chair Dani Madrone, Committee member Clark Gilman and Committee member Yến Huýnh

OTHERS PRESENT

City Manager Jay Burney

Community Planning and Development Staff:
Director of Community Planning and Development Leonard Bauer

Port of Olympia Executive Director Sam Gibboney

3. **APPROVAL OF AGENDA**

The agenda was approved.

4. **PUBLIC COMMENT - None**

5. **APPROVAL OF MINUTES**

- 5.A [21-0264](#) Approval of February 18, 2021 Land Use & Environment Committee Meeting Minutes

The minutes were approved.

6. **COMMITTEE BUSINESS**

- 6.A [21-0247](#) Port of Olympia Destination Waterfront Development Plan

Ms. Gibboney presented the Port's Waterfront Destination Development planning process.

Briefing only. No action requested.

6.B [21-0233](#) Downtown Residential Parking Exemption Boundary Briefing

The Committee agreed to refer the issue of the Downtown Residential Parking Exemption Boundary to the Olympia Planning Commission for more detailed review and a recommendation to the City Council.

The discussion was completed.

7. REPORTS AND UPDATES

Director Bauer shared updates to the Land Use and Environment Committee 2021 work program. The committee agreed to reschedule the next meeting from April 15 to April 22.

Committee member Gilman suggested potential work program items:

- Inclusion of required number of affordable units in residential development.
- Request staff to look at questions of whether Olympia has authority to require all-electric-ready residential construction?

Chair Madrone reported on the urban agriculture work group. High-level recommendations will come forward to the committee in July.

8. ADJOURNMENT

The meeting was adjourned at 6:54 p.m.



Land Use & Environment Committee

Briefing on Tenant Opportunity to Purchase Ordinances

Agenda Date: 4/15/2021
Agenda Item Number: 6.A
File Number:21-0328

Type: report **Version:** 2 **Status:** In Committee

Title

Briefing on Tenant Opportunity to Purchase Ordinances

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Briefing only. No action requested.

Report

Issue:

Local affordable housing advocates will provide a briefing on Tenant Opportunity to Purchase Ordinances (TOPO) and how this could be used in Olympia

Staff Contact:

Amy Buckler, Strategic Projects Manager, 360.280.8947

Presenter(s):

Amy Buckler, Strategic Projects Manager
Grace Lee, TOPO for the People Coalition
Miles Nowlin, TOPO for the People Coalition
Sam Green, TOPO for the People Coalition

Background and Analysis:

Tenant Opportunity to Purchase Ordinances (TOPO) aim to provide long-term protection of already existing affordable housing by allowing tenant groups the first opportunity to negotiate and bid on rental properties when they come up for sale.

A local group of housing affordability advocates (TOPO for the People Coalition) is working to educate and advocate for TOPO within the City of Olympia. Members of this group were invited by the Land Use and Environment Committee to provide an early-stage briefing. While TOPO for the People Coalition is making a recommendation for how TOPO could be used in Olympia (see attachment), further consideration including public and stakeholder engagement would need to be

conducted before any recommendation is made by staff and the City Manager.

TOPO is a potential tool for implementing the draft Housing Action Plan which is currently under development and will be considered by City Council in June. TOPO could assist with one particular strategy, to “increase the supply of permanently affordable housing for households that make 80% or less of the area median income.”

Under a TOPO, the local government would require property owners of designated housing types to provide tenants, non-profits and government entities with a notice of intent to sell. Additionally, the tenants would be provided first right to purchase the property or transfer their purchase rights to a non-profit, land trust or government agency. Ultimately, the aim is to tie the purchase of the property to a land trust or co-operative arrangement for long term ownership and preservation of affordability.

Typically, opportunity to purchase laws have been for Manufactured/Mobile Home communities only. Washington, D.C. has the most robust policy in the country and has applied it to other types of housing. Other cities like San Francisco, Berkley, Oakland, Seattle, Burién, Minneapolis and Baltimore are exploring and adopting their own versions of Tenant Opportunity to Purchase.

Neighborhood/Community Interests (if known):

Housing affordability is of great concern to the Olympia community. Specific interest in TOPO is unknown at this time.

Options:

1. Receive the briefing.
2. Do not receive the briefing.
3. Receive the briefing at another time.

Financial Impact:

None at the time.

Attachments:

TOPO for the People Coalition Recommendations
Link to TOPO4thepeople.org

TOPO4THEPEOPLE Coalition Recommendations for Olympia

A Tenant Opportunity to Purchase Ordinance in Olympia should include:

- Notice of sale by certified mail to residents and city.
 - Notice of sale has information, like a link to a website, about TOPO purchasing options
- 60 day response period to eligible organizations to respond with an offer
 - Residents have the first right as a co-op/CLT or HOA or can assign opportunity to other the qualified agency (with 51% vote of households), non-profit, government agency, housing authority or tribal agency.
- 120 day period to engage in negotiations, due diligence, access to finance, and build purchase agreements
- Owners would be required to sell to a qualified organization if it either matches an already accepted third party offer or matches the original asking price by means of a right of first refusal clause.
- Technical assistance funds and acquisition funds should be sourced by both the city and state to support tenant groups and eligible organizations throughout the bidding and purchase process.
- Strong penalties necessary to ensure landlord compliance (e.g 10% or sale price or 10k whatever is bigger)
- Long-term affordability clause if/when the qualified organization buys and converts property
- TOPO can be applied to all rental types, including single-family, duplexes, and quadplexes, multi-family, and manufactured housing communities.
- Include developing a Manufactured Housing Zone to protect these communities from being redeveloped and giving them increased opportunity to purchase.
- Incentives for property owners: Tax or Fee waivers if the property goes to an eligible organization.

Stakeholders. Who to invite to the table?

- Anyone in any type of rental situation.
- Anyone living in a MHP. Friendly Village residents especially
- SFH owners who rent out rooms, to get information and give input/ thoughts. If we want to get SFH included in the TOPO, we might need an example of how it might work

Resources. What would NWCDC/THLT need to get the work done?

- NWCDC would need to offset operating costs for assisting resident groups through the purchase process. While there is potential for earned income, it won't cover all costs.
- Resources for educational campaigns to inform landlords and tenants of the program. This could be done jointly with the city.

- Revolvable credit to lend for acquisitions. The acquisitions may require higher LTVs and lower interest rates than most conventional loans.

Home - TOPO 4
Olympia

TOPO 4 Washington
State

Why TOPO?

Resources



TENANT OPPORTUNITY TO PURCHASE ORDINANCE

FOR THE PEOPLE

WHAT IS TENANT



Page

Google Sites

Report abuse

OPPORTUNITY TO PURCHASE ORDINANCE (TOPO)?

Tenant Opportunity to Purchase Ordinances (TOPO) would provide long-term protection of already existing affordable housing by allowing tenant groups the first opportunity to negotiate and bid on rental properties when they come up for sale. Tenants can form a limited equity housing cooperative (LEHC) to purchase the community or transfer their purchase rights to a non-profit, land trust or government agency. This measure takes the property out of the speculative market, preserving it, stabilizing housing costs and safeguarding it from future redevelopment. Cities around the country like San Francisco, Berkley, Oakland, Seattle, Burien, Minneapolis, Baltimore are following the lead Washington DC's TOPA act in exploring and adopting their own versions of Tenant Opportunity to Purchase.

TOPO FOR OLYMPIA

Olympia Washington is ready for Tenant Opportunity to Purchase

ADOPT A ROBUST TENANT

1. OPPORTUNITY ORDINANCE

2. ADOPT A MANUFACTURED HOUSING ZONING PROTECTION

3. PROVIDE FUNDING STREAMS FOR TOPO TECHNICAL ASSISTANCE AND ACQUISITION SEED MONEY

Sign the Coalition Letter

Email City Council

HIDDEN VILLAGE HOMEOWNERS COOPERATIVE, OLYMPIA

RESIDENT OWNED, RESIDENT CONTROLLED

In 2008, the owner of College Street Mobile Home Park offered to sell his property to the residents. They formed an HOA, applied for funding, and met his price. Hidden Village was the result, a low-income non-profit co-op that is self-managed and self-governed by resident members. Lot rent has not been raised since 2010, despite rapidly increasing rents everywhere else in our region. We can afford this because we don't have investors, landlords, or property managers cutting into our limited finances. As Crystal Adkins wrote in a recent issue of Mobile Home Living, "Tenant-owned parks are superior in many ways and hopefully will become more common as financial institutions realize the many benefits that come from tenant-owned parks."

"Between the rising cost of living and job issues due to the pandemic, those at the lower income levels, including manufactured home owners, are easily exploited for others' profit. Living in a co-op allows us some control and dignity over our lives."

-Mary Testa Smith, cooperative board member



To whom it may concern,

I am writing this in support of implementing a tenant opportunity to purchase ordinance (TOPO). I live in a 20-home tenant owned coop in Olympia. If it were not for our community being self-managed and maintaining the same rent since inception there would be no way I could afford to live in this area. Our community is beautiful and well cared for due to tenant ownership and pride in this ownership.

I am a 71-year-old retired RN who worked her whole adult life. My social security provides my only income of approximately \$1560 per month. I was lucky enough to be able to buy my mobile home outright, but had it not been for tenants purchasing the property years ago, I would not be able to afford the space rent! Similar, privately owned mobile home parks, are charging \$650-750 per month lot rent and many require your income to be 3 times the lot rent. As you can see there is no way I could afford or qualify at these rates. Our lot rents are \$395/mo. and have been that since the inception of the tenant owned mobile home park. This amount has been more than adequate to keep our park up to all county and HUD expectations, as well as an attractive, safe place to live.

The ownership and self-governing of the park allow us a long-term place to reside without the fear of someone coming along and buying the land our homes sit on and raising the rates to anything they see fit, thus forcing eviction with nowhere to go. If this were to happen, I would be homeless as there are no rentals that I could afford.

In addition to the financial aspect of living in a tenant owned park the people here are involved in democratic decision making, owner investment in community improvements thus making it a great place to call home. Owner investment is obvious the minute one drives into our park by the care taken by all with keeping up their homes and yards.

I implore you to implement a TOPO for the Olympia area. This could help so many people going forward.

Thank You,
Peggy Searce
President of the Hidden Village Homeowners Cooperative.

THE COALITION LETTER

The City of Olympia has an emergent need to develop and preserve more long-term affordable housing. Housing costs have surpassed household wage increases in Thurston County over the past 10 years and over 30% of Thurston residents are cost-burdened paying more than a third of their income in rent. Population growth in Olympia is adding pressure to the housing market and increased market-rate, for-profit development will not solve the housing crisis. Affordable housing is being bought and sold on the speculative market by large investment firms, causing rental costs to rise as property values surge. Tenants are demanding stronger protections against eviction and greater access to affordable rental units as the city gentrifies. City targeted efforts to encourage building fall short of long term affordability solutions as new market-rate apartments inflate surrounding property values and squeeze out opportunities to build and preserve permanent affordable housing. It is time for the City of Olympia to implement a robust tenant opportunity to purchase ordinance (TOPO) to offer cooperatives, land trusts, nonprofits, and government agencies a fair chance to purchase, develop, rebuild and preserve affordable housing for the indefinite future.

A strong TOPO would provide long-term protection of already existing affordable housing by allowing tenant groups the first opportunity to negotiate and bid on their own housing when they come up for sale. A strong TOPO for Olympia would grant tenants and eligible organizations adequate notice of sale and allow up to 60 days to respond with an offer. Eligible groups would then have 90 to 120 days to engage with owners in negotiations and due diligence to access financing and purchase rental properties for the public good. Owners would be required to sell to a qualified organization if it either matches an already accepted third party offer or matches the original asking price by means of a right of first refusal clause. Technical assistance funds and acquisition funds should be sourced by both the city and state to support tenant groups and eligible organizations throughout the bidding and purchase process.

TOPO law has great potential to support increased development of limited-

equity housing cooperatives, community land trusts, and affordable homeowners associations. The Washington DC TOPA statute has been in place since 1979 and has supported the development of over 100 multifamily housing cooperatives. San Francisco passed its version entitled COPA, and Berkeley and Oakland are pursuing strong models driven by tenant organizing. Seattle recently strengthened its notice of sale ordinance and Burien passed a tenant notice of sale rule in combination with just cause for eviction and other tenant protections. States across New England have decades-old tenant opportunity to purchase laws offering preservation rights to manufactured housing cooperatives where, in New Hampshire, $\frac{1}{3}$ of all mobile home parks are now resident-owned co-ops. Resident control allows for democratic decision making, owner investment in community improvements, and long term affordability. An Olympia TOPO would bolster community-owned housing offering working-class Olympians secure and enriched housing options. TOPO can be applied to all rental types, including single-family, duplexes, and quad-plexes, multi-family, and manufactured housing communities.

Land-leased Manufactured housing communities are prime candidates for TOPO as tenants own their homes but lease their home lots from private owners. These communities are depleting with pressures of equity investment firms buying them for top dollar for their high returns raked in by rent increases and future plans for redevelopment. A TOPO ordinance in Olympia should include developing a Manufactured Housing Zone to protect communities from being redeveloped. The eight manufactured housing communities in Olympia, representing 680 households, should be preserved as affordable housing where residents have a purchasing opportunity to preserve just like traditional multi-family developments. These communities offer affordable homeownership opportunities and are commonly structured as senior living communities.

TOPO has the potential to empower residents and communities with the chance to own their homes, maintain affordability, and fairly compete with the elite investment groups buying up our city. It fends off threats of out pricing

the poor and working-class through gentrification planning while preserving and improving valuable housing that already exists. TOPO is a long-term solution to affordable housing that works up the stream of homelessness and supports working-class prosperity. We urge the Olympia City Council to make TOPO a top legislative priority for our community.

[Sign the Coalition Letter](#)



Land Use & Environment Committee

Shoreline Master Program Periodic Review

Agenda Date: 4/15/2021
Agenda Item Number: 6.B
File Number:21-0309

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Shoreline Master Program Periodic Review

Recommended Action

Committee Recommendation:

Move to concur with the proposed amendments by the Planning Commission to the Shoreline Master Program and Critical Areas Ordinance in response to the Washington State Department of Ecology's Initial Determination of Consistency and refer the proposal to the full City Council.

City Manager Recommendation:

Move to concur with the proposed amendments to the Shoreline Master Program and Critical Areas Ordinance in response to the Washington State Department of Ecology's Initial Determination of Consistency and refer the proposal to the full City Council.

Report

Issue:

Whether to concur with the proposed amendments forward to the full City Council for approval.

Staff Contact:

Joyce Phillips, Principal Planner, Community Planning and Development, 360.570.3722

Presenter(s):

Joyce Phillips, Principal Planner, Community Planning and Development

Background and Analysis:

Shoreline Master Programs (SMPs) are local land use policies and regulations that guide development and the use of most shorelines. SMPs apply to both public and private uses for lakes, streams, associated wetlands, and marine shorelines. They protect natural resources for future generations, provide for public access to public waters and shores, and plan for water-dependent uses. SMPs must be consistent with the Shoreline Management Act (RCW 90.58) and must be approved by the Washington State Department of Ecology (Ecology).

SMPs must be reviewed and, if necessary, updated to ensure they remain compliant with state laws and local comprehensive plans. This review must be completed every eight (8) years and is known as the "Periodic Review". Olympia's SMP Periodic Review must be completed by June 30, 2021.

Ecology provides technical assistance, guidance documents, and grant funding for this work. Ecology's grant contract requires completion of five tasks, designed to ensure local governments complete the required Periodic Review. The primary task is to review the SMP and draft revisions, if needed.

The City used Ecology's checklist and determined that some changes are needed. This analysis was reviewed by Ecology for their input. The outcome of that review, known as the Gap Analysis, then became the minimum scope of work for the update.

The draft SMP amendments were issued in late October of 2020. Related revisions to the Critical Areas Ordinance (CAO), to update the version of Ecology's wetland guidance the City uses and to ensure consistency and coordination between the SMP and the protection of environmentally sensitive areas, were issued in late November and posted online in early December. The drafts are posted online (Attachment 1). A summary of the biggest proposed changes is also posted on the project webpage. The City worked with the Department of Ecology under the joint review process, which included a Public Open House conducted jointly on December 2, 2020, the joint public comment period (December 4, 2020 through January 11, 2021) and a joint public hearing (January 11, 2021). The public comment period closed at the end of the public hearing.

Planning Commission Recommendation

The Planning Commission deliberated on the draft amendments and public comments received during two public meetings. Although the Commission was aware that staff was working to prepare a response to public comments, and even requested that some of the "big picture" type of comments be addressed by identifying additional entities and programs at work to help improve the health of the Puget Sound, the Commission was comfortable making a recommendation to approve the proposed amendments with two revisions:

- 1) The setback and vegetation conservation area for the portion of the Waterfront Recreation Shoreline Environment adjacent to Budd Bay shall be a minimum of 50 feet instead of 30 feet as recommended by staff; and,
- 2) Revise the term "dredge spoils" to "dredge materials".

Response to Public Comments

The City was required to provide Ecology with written responses to public comments received. The Watershed Company and City Staff prepared the responses and proposed additional revisions to the SMP and CAO in order to respond to some public comments. It is not uncommon for additional revisions to be drafted in response to public comments and one of the required submittals to Ecology is a summary of such amendments. See the Response to Public Comments (Attachment 5) and Summary of Amendments Proposed after the Public Hearing (Attachment 6).

Ecology's Initial Determination of Consistency

Ecology provides guidance and technical assistance throughout the process. Ecology conducts a formal review of the final draft and issues an Initial Determination of Consistency (Attachment 4). In this review, Ecology identified three required revisions and five recommended changes.

City staff reviewed the comments and concurs with all of the required and recommended changes,

although one additional point of clarification was added. The clarification pertains to the Table in Section 18.32.435 of the Critical Areas Ordinance regarding buffers for Type S waters (now refers the reader to the SMP) and for Priority Riparian Areas (critical area buffer of 250 feet). City staff worked with Ecology staff to ensure the clarification language is acceptable to both entities and would retain the findings of Ecology included in the Initial Determination of Consistency.

Next Steps

SMPs are unique policy and regulatory documents because they need to be approved by both the City and Ecology. Any modifications require approval by both entities before the SMP can be implemented. Once the City Council takes action on these proposed amendments, the SMP and related CAO amendments are sent to Ecology for its consideration and approval.

Neighborhood/Community Interests (if known):

Shoreline issues are of interest to our community. Several people submitted written comments expressing viewpoints on the SMP in general, as well as on the proposed amendments. Most comments received call for greater environmental protection of shorelines and specifically for Puget Sound.

Several comments submitted raised concerns about the health of the Puget Sound including species protection and water quality issues. Some comments were beyond the scope of the Shoreline Master Program Periodic Review. There are several significant efforts underway to address the health of the Puget Sound, most of which are addressed by state or federal agencies.

Other comments addressed issues regarding public access requirements, live-aboard vessels in marinas, nonconforming structures, setbacks, and development near shorelines. Public comments received during the public comment period are provided on the project webpage. Comments received after the close of the public hearing are attached.

Options:

1. Concur with the proposed amendments and forward to the full City Council for consideration.
2. Modify the proposed amendments and forward to the full City Council for consideration.
3. Forward the proposed amendments to the full City Council without a favorable recommendation.

Financial Impact:

The City entered into a contract with the Washington State Department of Ecology for \$28,000 in grant funding to help complete the Periodic Review. The City hired The Watershed Company for professional services to conduct the review, draft required updates, and to assist in the review and adoption process.

Attachments:

Project Webpage
Final Draft SMP
Final Draft CAO
Ecology Initial Determination
Response to Public Comments
Amendments Proposed after Public Hearing Summary

Type: recommendation **Version:** 1 **Status:** In Committee

Additional Public Comments

Shoreline Master Program (SMP)



About the SMP

The Shoreline Master Program (SMP) is a set of local policies and regulations adopted by the City under the State's Shoreline Management Act that generally applies to all major water bodies and lands within 200 feet of those waters.

- [View the 2015 Olympia SMP](#)
- [View the 2018 Olympia SMP - as amended \(Appendix A\) \(Appendix B\)](#)

Periodic review

Every eight years, counties and cities must review the SMP to ensure it remains consistent with any changes in state law, the adopted Comprehensive Plan, and any changes in local circumstance.

The periodic review is not as involved as the “comprehensive update” that Olympia completed in 2015. The comprehensive update was a major rewrite of the SMP that took several years to complete.

For the periodic review, the Washington State Department of Ecology (Ecology) provides a checklist for us to identify and evaluate any needed revisions. Ecology also provides grant funds to help cover the costs associated with conducting the review. The City of Olympia will conduct this review in 2020 and the first half of 2021.

- [View the gap analysis based on Ecology's checklist](#)
- [Fact sheet](#)
- [Info sheet: Summary of biggest changes](#)
- [Info sheet: Waterfront recreation setback and VCA changes](#)
- [SMP Revisions - Public Draft #1](#)
- [CAO Revisions - Wetland Buffers](#)

The public hearing was conducted jointly with the Washington State Department of Ecology on Jan. 11, 2021. The Planning Commission will provide a recommendation to the City Council regarding the proposed amendments.

Amendments must be approved by the City Council and the Department of Ecology.

- [View public comments](#)
- [Response to public comments](#)

Next steps

The City is awaiting the results of the Washington State Department of Ecology's Initial Determination. Adjustments may be needed based on the results of the review. The City Council's Land Use and Environment Committee is tentatively scheduled to receive an update on the SMP Periodic Review on Thursday, April 15, 2021. The full Council may consider these amendments as soon as May 4, 2021.

How to participate

Please contact Joyce Phillips at 360.570.3722 or jphillip@ci.olympia.wa.us and ask to be added to the interested parties list to receive periodic email updates.

You can also subscribe to the Planning & Development newsletter at olympiawa.gov/subscribe to receive this and other planning related information.

- [View the Public Participation Plan](#)
- [Frequently Asked Questions](#)

Questions?

For questions about the Periodic Review contact Joyce Phillips at 360.570.3722 or jphillip@ci.olympia.wa.us.

For questions about shoreline development or permits contact 360.753.8314 or cpdinfo@ci.olympia.wa.us.

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

Section 1

General Provisions

- 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) 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 Shoreline Management Act. 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 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 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.

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 explains the Program's relationship to other ordinances and laws. Section 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.

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 shorelines, 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 Section 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.

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 ¹				
Setbacks	X		X							
Heights	X	X	X							
View Protection	X	X	X					X		
Sea Level Rise	X	X	X	X			X	X	X	
No Net Loss	X	X			X	X		X		
Vegetation Preservation	X	X	X ²			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><i>SMP = Shoreline Master Program</i> <i>EDDS = Engineering Development & Design Standards</i> <i>CAO = Critical Areas Ordinance</i> <i>SEPA = State Environmental Policy Act</i> <i>CFP = City's Capital Facilities Plan</i> <i>X = Primary Function</i></p>										

Commented [A1]: Per Gap Analysis Report – Table 7, Item 3

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);

¹ CAO applies to the shoreline and is a separate regulatory document: however following adoption of the SMP, the CAO was incorporated into the SMP by reference.
² And the Tree Protection and Replacement Code, OMC Chapter 16.60.

- 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 Regulations Adopted by Reference

The Critical Areas regulations adopted by Council ~~as of December 12, 2017~~, contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference as described in Section 18.20.420 A; ~~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.

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 action by the Washington State Department of Ecology.

Commented [A2]: Modifications made to match language suggested by Dept. of Ecology in the Initial Determination of Consistency issued 3/19/2021, Recommendation #1.

Ecology's Recommendation: Remove the specific date and Ordinance number, add a reference to SMP Section 18.20.420 A and delete the language on reasonable use provisions.

Ecology's Rationale: The reference to the specific ordinance and adoption date is included in OMC 18.20.420A (SMP 3.23). Deleting the specific reference here will reduce the number of changes necessary whenever an amendment is needed to update the referenced ordinance. The reasonable use language is duplicative of language in 18.20.420 C.8. and is only one of a number of critical area provisions which are not applicable in shoreline jurisdiction.

Section 2

Goals and Policies

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.

H. The policies and regulations of Olympia’s Shoreline Program should provide resilience for shoreline ecosystems, functions, and developments in response to sea level rise.

Commented [A3]: Per Gap Analysis Report – Table 7, Item 3

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. For example, the approach identified in the West Bay Environmental Restoration Assessment Report suggested restoration for specific reaches of shoreline.
- 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.

Commented [A4]: Per City staff review team request.

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 and mitigate for impacts from sea level rise 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.

Commented [A5]: Per Gap Analysis Report – Table 7, Item 3

G. 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.

Commented [A6]: Per Gap Analysis Report – Appendix A, Item 10

Text re-located from 2.5 (Aquatic Environment Management Policies).

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 or expanded 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 on shoreline ecological functions 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 forage fish habitat and 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.

~~G.H.~~ Soft shore stabilization methods or habitat restoration approaches should be encouraged when ecological functions can be improved, such as through restoration as envisioned in the West Bay Environmental Restoration Assessment Report for some reaches.

~~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 characterized by 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.

Commented [A7]: Per Gap Analysis Report – Appendix A, Item 7

Commented [A8]: Per Gap Analysis Report – Appendix A, Item 8

Commented [A9]: Per Gap Analysis Report – Appendix A, Item 9

Commented [A10]: Per City staff review team request.

Commented [A11R10]: Note, the phrase “waterward of the OHWM” has been removed in response to WDFW comment.

Commented [A12]: Per Gap Analysis Report – Appendix A, Item 10

Text re-located to 2.4 (Shoreline Use and Development Policies).

Commented [A13]: Per Gap Analysis Report – Appendix A, Item 11

- 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 Environment 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 Environment 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 Environment 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, ~~and recreational camping facilities;~~ 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.

Commented [A14]: Per Gap Analysis Report – Table 8, Item 5.
Language revised in accordance with Ecology’s comments.

Commented [A15]: Per Gap Analysis Report – Appendix A, Item 14

- 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 Environment 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 of OHWM.~~

Commented [A16]: Per Gap Analysis Report – Appendix A, Item 17

2.11 Urban Intensity Environment 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.
- E. ~~Provide for~~Support the restoration, repair and replacement of Percival Landing including consideration of sea level rise protection.
- F. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development ~~or redevelopment~~. Where applicable, ~~new~~ development should include environmental cleanup and restoration of the shoreline to comply with any ~~applicable~~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. ~~Additional requirements for views in and across the Downtown area are also specified in OMC 18.120.~~
- H. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, ~~design guidelines~~, 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~~.

Commented [A17]: Per Gap Analysis Report – Appendix A, Item 18

Commented [A18]: Per Gap Analysis Report – Appendix A, Item 19

Commented [A19]: Per Gap Analysis Report – Appendix A, Item 20.

Additional language added to reference Downtown view standards in OMC 18.120.

Commented [A20]: Per Gap Analysis Report – Appendix A, Item 21

2.12 Port Marine Industrial Environment 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 development 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 Policies

- 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 rights-of-way, and other pedestrian or public thoroughfares.
- J. Public access and interpretive displays should be provided as part of publicly-funded projects.

- K. On-site public access may not be required by a new development or redevelopment if adequate public access already exists in the immediate vicinity, per 18.20.450 and .460.

Commented [A21]: Per Gap Analysis Report – Appendix A, Item 26

2.16 Scientific and Educational Activity Policies

- A. Encourage scientific and educational activities related to shoreline ecological functions and processes, including sea level rise resilience.

Commented [A22]: Per Gap Analysis Report – Table 7, Item 3

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 Area 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 or 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, including education about the appropriate and proper usage of fertilizers and pesticides along the shoreline.

Commented [A23]: Per Gap Analysis Report – Appendix A, Item 29

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. 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. New covered moorage and boathouses 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.

Commented [A24]: Per Gap Analysis Report – Appendix A, Items 36 & 56

Commented [A25]: Per Gap Analysis Report – Appendix A, Item 36

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 with consideration of sea level rise projections and 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 from 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.

Commented [A26]: Per Gap Analysis Report – Table 7, Item 3

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, account for sea level rise projections, not result in a net loss of shoreline ecological functions, or adversely impact existing or planned water-oriented uses, public access, and habitat restoration and 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

Commented [A27]: Per Gap Analysis Report – Table 7, Item 3

- 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, account for sea level rise projections, 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.

Commented [A28]: Per Gap Analysis Report – Table 7, Item 3

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 or essential public facilities or both, 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, ~~and~~ federal 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 materials~~ on land away from the shoreline is preferred over open water disposal. ~~Disposal of dredge materials near water should be conducted in a manner to avoid and minimize impacts to water quality.~~
- G. Re-use of ~~uncontaminated~~ dredge ~~spoils material~~ 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.

Commented [A29]: Per Gap Analysis Report – Appendix A, Item 48

Commented [A30]: Per PC, change term “dredge spoils” to “dredge materials”

Commented [A31]: Per Gap Analysis Report – Appendix A, Item 49

Commented [A32]: Per Gap Analysis Report – Appendix A, Item 50

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 ~~Olympia Sea Level Rise Response Plan and 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, ~~ecological restoration,~~ 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 authorized restoration activity.
- G. Fill should not adversely impact navigation.

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Commented [A34]: Per City staff review team request.

- H. Fill should not be allowed where structural shoreline stabilization would be required to maintain the materials placed.

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 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.

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 both sensitive and 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. Permanent in-stream structures should be prohibited except for restoration and enhancement structures, and transportation and utility crossings as described elsewhere in this Program. 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.
- M. Restoration and enhancement projects, such as those envisioned in the West Bay Environmental Restoration Assessment Report for some shoreline reaches, 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.

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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, including a consideration of sea level rise.
- 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, or

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to increase sea level rise resilience, alternative measures that are less harmful to shoreline ecological functions should be employed. An example of such an approach is included in the West Bay Environmental Restoration Assessment report for some shoreline reaches.

Commented [A37]: Per Gap Analysis Report – Table 7, Item 3

Commented [A38]: Per City staff review team request.

- 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.
- 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

Chapter 18.20 Shoreline Master Program Regulations

3.1 18.20.100 - 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 18.20.300 - 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 non-federal 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 18.20.110 - 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 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.

3.3 18.20.120 - 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,
- 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.

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.

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 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 aluminum sheet piling, wood, or wood and structural steel combinations. Structural foundation walls are not bulkheads unless located at the Ordinary High Water Mark.

Camping Facilities: Short-term overnight accommodations (generally 1-15 nights per guest) in organized facilities with amenities designed for guests and their enjoyment of the waterfront. Such facilities require amenities such as restrooms and may include opportunities for cooking, connection to electricity, and potable water. Amenities should be appropriate for the proposed use, such as electricity for recreational vehicles.

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 this 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.

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.

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.

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.

Functional Disconnect: An existing, legally established public road or other substantially developed surface which effectively eliminates the capacity for upland areas to provide shoreline ecological functions, as defined in WAC 173-26-201(2)(c). As used in this definition, “substantially developed surface” can include public infrastructure such as roads, and private improvements such as commercial structures. A “substantially developed surface” shall not include paved trails, sidewalks, private driveways or accessory buildings that do not require a building permit.

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.

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.

Commented [A39]: Per Gap Analysis Report – Table 8, Item 3 and Appendix A, Item 76

Commented [A40]: Last sentence added as suggested by Dept. of Ecology in its Initial Determination of Consistency comments, Recommendation #2.

Ecology Recommendation: Define “substantially developed surface” which is vague.

Ecology Rationale: Additional language is suggested to better define “substantially developed surface” to aid in implementation.

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 water-ward 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: 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.

Live-aboard vessel: A vessel primarily used as a residence, and if used as a means of transportation or recreation, said transportation or recreation is a secondary or subsidiary use. Any vessel used for overnight accommodation for more than fifteen (15) nights in a one-month period shall be considered a residence.

Commented [A41]: Per Gap Analysis Report – Table 8, Item 7

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 ramp for water access. Marina features located in the intertidal or offshore zone water-ward of the Ordinary High Water Mark, 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: 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: 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.

Nonconforming Development or Nonconforming Structure: An existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers, vegetation conservation areas, or yards; area; bulk; or height standards due to subsequent changes to the master program.

Nonconforming Lot: A lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

Nonconforming Use: An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

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.

Commented [A42]: Per Gap Analysis Report – Table 2, Item 2017g

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 characteristics 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 of 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: 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 18.20.860 for examples.

Should: 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.

Weir: A device placed in a stream or river to raise or divert the water.

3.4 18.20.200 - 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).

3.5 18.20.210 - 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 18.20.215 - Exceptions to Local Review

- A. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, exemption, or other review to implement the Shoreline Management Act do not apply to the following:
1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
 2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
 3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.
 4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
 - 4-5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

3.76 18.20.220 - 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

Commented [A43]: Per Gap Analysis Report – Table 2, Item 2017c

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.

3.87 18.20.230 - 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.

3.98 18.20.240 - Shoreline Variances

- 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
 - 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 Variance Permits were granted for other developments in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

3.109 18.20.250 - Unclassified Uses

- A. Other uses not specifically classified or set forth in this chapter may be authorized as shoreline conditional uses provided the applicant can satisfy the Shoreline Conditional Use Permit criteria set forth above.
- B. Uses that are specifically prohibited by this chapter cannot be authorized by a Shoreline Conditional Use permit.

3.110 18.20.260 - 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.

3.124 18.20.270 - 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.

3.132 18.20.280 - Shoreline Permit Procedures

- 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 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~~ are decided by the Administrator, ~~if a public hearing is not requested by an interested party, unless elevated by the Administrator to a Hearing Examiner decision because the proposal is extraordinarily complex, has significant impacts beyond the immediate site, is of a community wide interest, or is of a controversial nature.~~ The Hearing Examiner shall hold a public hearing and render a decision ~~for regarding other applications identified in subsection A of this section~~ all Conditional Use Permit and Variance Permit applications. 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 additional manner deemed appropriate.
- E. The decision of the Administrator ~~may be appealed to the~~ hearings examiner ~~per OMC 18.20.290. The Hearing Examiner decision~~ may be appealed to the Shorelines Hearing Board pursuant to WAC 173-27-220.

Commented [A44]: Per Gap Analysis Report – Table 8, Item 1 & Appendix A, Items 62 and 63

Commented [A45]: Per City review team request.

Commented [A46]: Per City review team request.

- F. Pursuant to WAC 173-27-090 and 173-27-100, the Administrator shall review and decide requests for time extensions and permit revisions. Any permit revision approval must be submitted to the Department of Ecology. The decision of the Administrator may be appealed pursuant to OMC 18.20.290. 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. Conditional Use Permit or Variance decisions may be appealed to the Shoreline Hearings Board pursuant to WAC 173-27-220.
- G. When developing ~~and adopting procedures for an~~ 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.

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Commented [A48]: Suggested edit per Ecology on 11/9/2020

3.143 18.20.285 - 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 173-26-100(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. The City may utilize the optional joint review process for SMP amendments according to the procedures prescribed in WAC 173-26-104.

Commented [A49]: Per Gap Analysis Report – Table 2, Item 2017i

- ~~D.E.~~ 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. The applicant shall furnish to the Planning Department the names and addresses of property owners who are to receive notice.

3.154 18.20.290 - 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 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 appeal hearing, and shall be subject to the provisions of 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.

~~3.165~~ 18.20.295 - 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.”

~~3.176~~ 18.20.300 - 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. 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.

~~B.C.~~ In circumstances where the shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity, or development proposed on that portion of the parcel is subject to the City’s Shoreline Master Program regulations. When a structure is partially in and partially out of the shoreline jurisdiction, the entire structure must comply with the Shoreline Master Program. When development on a parcel is completely outside of the shoreline jurisdiction it does not need to comply with the SMP.

Commented [A50]: Per Gap Analysis Report – Table 8, Item 2 and Appendix A, Item 65. Based on example language provided by Ecology.

~~3.187~~ 18.20.310 - 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 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.

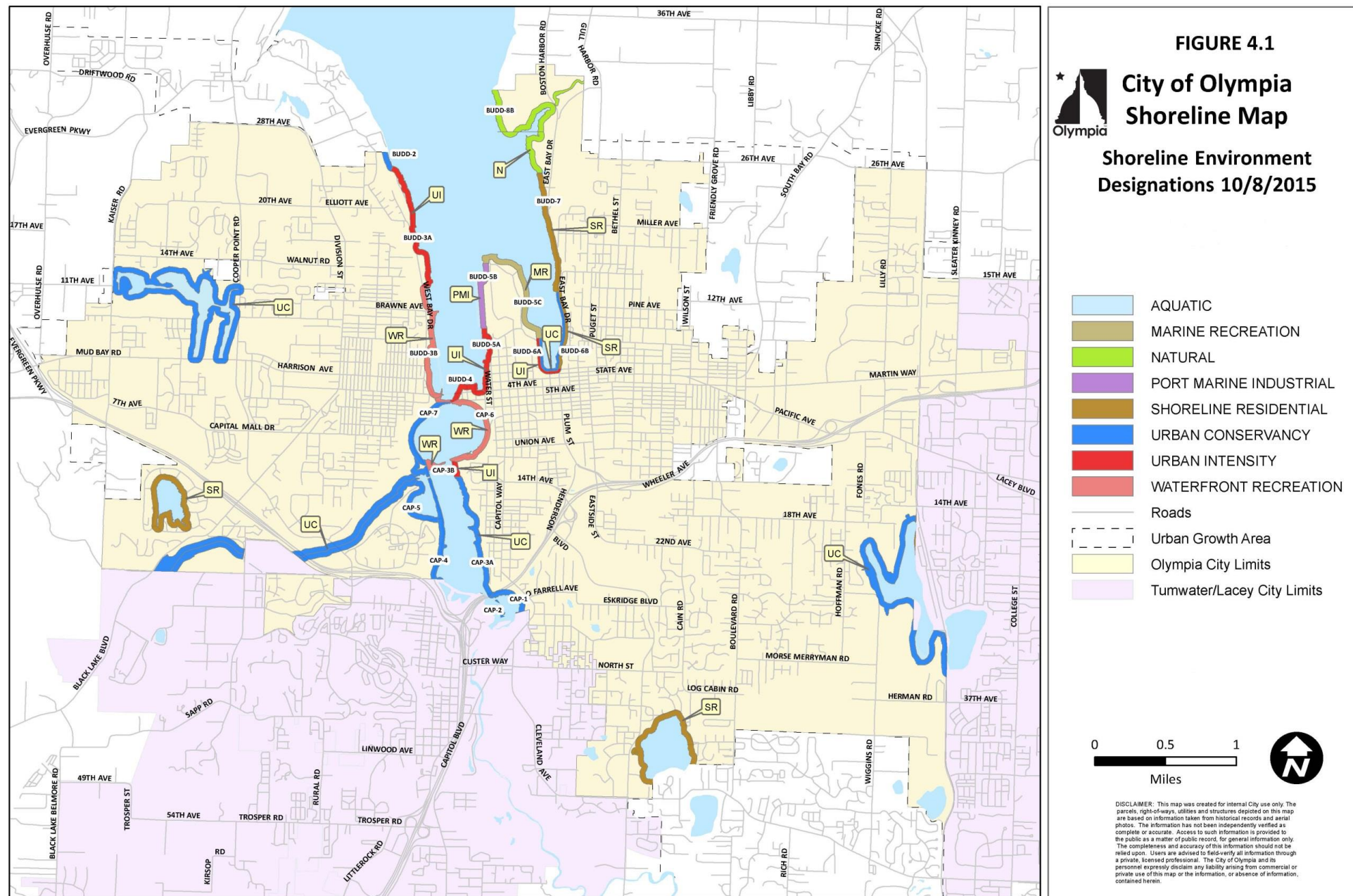
C. Where uncertainty or conflict occurs in the exact location of a shoreline designation boundary, the Administrator shall interpret the boundaries based upon:

1. The coordinates listed in *Shoreline Environmental Designations for the City of Olympia*;
2. Boundaries indicated as approximately following lot, tract, or section lines;
3. Boundaries indicated as approximately following roads or railways shall be construed to follow their centerlines; and
4. Boundaries indicated as approximately parallel to or extensions of features indicated in 2 or 3 above shall be so construed.

- D. 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.

3.198 18.20.320 - 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.



Map Figure 4.1

3.2019 18.20.330 - 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.

3.210 18.20.400 - General Regulations – Intent

~~This s~~Sections 18.20.400 through 18.20.510 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 18.20.600, et seq.

Commented [A51]: Revised language to provide greater clarity.

3.224 18.20.410 - 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 of 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), 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 (OMC 18.20.410(B)), mitigation may occur offsite if 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 18.20.410. 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.

3.232 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with the critical areas regulations adopted by Council as of Month Day, 202X (Ordinance XXXX) and codified in 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. Regardless of other provisions in Chapter 18.32, to ensure consistency with the sshoreline 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%) within shoreline jurisdiction shall require a shoreline variance.
 3. 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.
 4. 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(LM)).
 5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 43 and 54 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).
 6. Wetland buffer reductions beyond twenty-five percent (25%) within shoreline jurisdiction shall require a shoreline variance.
 - ~~7. 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).~~
 - 8.7. 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.
 - 9.8. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.
 9. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).
 10. Priority riparian area buffers are set forth in OMC 18.32.435 Streams and Priority Riparian Areas- Buffers.
 - ~~10-~~

Commented [A52]: Per Gap Analysis Report – Table 3, Item 1
Final revisions pending concurrent adoption of CAO updates

Commented [A53]: Modification made to correct typographical error identified by Dept. of Ecology in its Initial Determination of Consistency, Recommendation #3.

Commented [A54]: Modification made to correct citation error, identified by Dept. of Ecology in its Initial Determination of Consistency, Recommendation #3.

Commented [A55]: Modification made to correct citation error, identified by Dept. of Ecology in its Initial Determination of Consistency, Recommendation #3.

Commented [A56]: Modification made to correct citation error, identified by Dept. of Ecology in its Initial Determination of Consistency, Recommendation #3.

Commented [A57]: Modification proposed based on Dept. of Ecology’s Initial Determination, Recommendation #4.

Ecology Recommendation: Delete text in C.7.

Ecology Rationale: The language in C.7 is duplicative of language in OMC 18.32.580 Wetlands – Wetland Boundary Delineation, which has been incorporated by reference.

Commented [A58]: Modification proposed based on Dept. of Ecology’s Initial Determination Recommendation #4, as revised per email received on March 30, 2021.

Ecology Recommendation: A new provision is suggested to clarify implementation of “priority riparian area” buffers on Type S waters.

Ecology Rationale: This is a suggested alternative to the City’s proposed revisions, in response to public comments, in 18.32.405, 18.32.410, 18.32.435..

3.243 18.20.430 - 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. In accordance with OMC 18.12 and WAC 173-26-221, 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.

Commented [A59]: Per Gap Analysis Report – Appendix A, Item 69

3.254 18.20.440 - 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 18.20.495.
- 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.

3.265 18.20.450 - 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 developments proposed or funded by public entities, 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 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;
 5. The development site is disconnected from the shoreline by an existing, legally established public road or public space such as Percival Landing other substantial developed surface which results in a functional disconnect from the shoreline, or
 6. Safe and convenient public access already exists in the immediate vicinity, and/or adequate public access is already documented at the property. The Administrator will consider the following to determine if adequate public access is provided in immediate vicinity:
 - a. Public access areas occur along the shoreline within 1/8 mile of the development site or within ¼ mile when seating is provided along the route; and
 - b. Safe pedestrian access from the site to the public access areas along or to the shoreline is provided.
 7. The cost of providing the access, easement or an alternative amenity is unreasonably disproportionate to the cost of the proposed development.
- 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 final 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 responsibility may be required of a future homeowners' association, or other entity approved by the City.

Commented [A60]: Modifications made based on comments from Dept. of Ecology in its Initial Determination, **Requirement #1.**

Ecology Requirement: Revisions are needed for internal consistency with 3.27 (18.20.460) Public Access Design, as required by WAC 173-26-211(3), and for consistency with WAC 173-26-221(4)(d).

Ecology Rationale: As proposed in the SMP, the definition of "functional disconnect" relates to the assessment that the upland area separated from the shoreline does not provide shoreline ecological functions. This ecological and biological determination has no bearing on the decision to waive public access requirements on a site. In addition, the presence of intervening development may not preclude public access but may require it occur in a different manner.

Commented [A61]: Per Gap Analysis Report – Table 8, Item 3 and Appendix A, Items 71 & 76

Commented [A62]: Per Gap Analysis Report – Table 8, Item 3 and Appendix A, Items 71 and 76

Commented [A63]: #7 added based on suggested language from Dept. of Ecology in its Initial Determination, Recommendation #5.

Ecology Rationale: Additional language is suggested for the City's consideration.

- 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 Administrator during review of the shoreline permit. If exempt from a shoreline permit, public access areas may be required by the Administrator.

3.276 18.20.460 - 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. This requirement may be waived by the Administrator where all of the following conditions are present:~~
 - ~~a. The development site is disconnected from the shoreline by an existing, legally established public road or public space such as Percival Landing, which results in a functional disconnect from the shoreline;~~
 - ~~b. Public access areas occur along the shoreline within 1/8 mile of the development site or within ¼ mile when seating is provided along the route; and~~
 - ~~c. Safe pedestrian access from the site to the public access areas along or to the shoreline is provided.~~
 - 4.5. 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.
 - 5.6. 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 be designed to discourage offensive or illegal conduct.
 - 6.7. Public amenities such as, but not limited to, a covered shelter, benches, or picnic table shall be provided in public access areas.
 - 7.8. 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 shared-use

Commented [A64]: Added the word "public" before road and deleted "which results in a functional disconnect from the shoreline" per Dept. of Ecology's Initial Determination comments, Requirement #2.

Ecology Requirement: Revisions are needed for internal consistency with 3.26 18.20.450 Public Access, as required by WAC 173-26-211(3), and for consistency with WAC 173-26-221(4)(d).

Ecology Rationale: As proposed in the SMP, the definition of "functional disconnect" relates to the assessment that the upland area separated from the shoreline does not provide shoreline ecological functions. This ecological and biological determination has no bearing on the decision to waive public access requirements on a site. In addition, the presence of intervening development may not preclude public access but may require it occur in a different manner.

Commented [A65]: Per Gap Analysis Report – Table 8, Item 3 and Appendix A, Items 71 and 76

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.

3.287 18.20.470 - 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 18.20.620.
- E. Temporary facilities used in conjunction with the scientific or educational project shall be removed at the conclusion of the project.

3.298 18.20.480 - 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.

3.3029 18.20.490 - 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.

3.319 18.20.492 - 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 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 18.20.410(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 18.20.493 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 18.20.410(H).

3.324 18.20.493 - 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.

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, and 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
 - c. Implementing best management practices to reduce erosion and discharge of untreated stormwater 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 18.20.500;
 8. Improvements that are part of an approved enhancement, restoration, vegetation management or mitigation plan;
 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; **8. restrooms, when no suitable location outside of the VCA exists;** and
 11. Water dependent uses as authorized in OMC 18.20.620 Table 6.3.
- B. Appurtenant and accessory structures other than those described above or in OMC 18.20.690(C) are prohibited within the vegetation conservation area.

Commented [A66]: Some City parks (i.e., West Bay Park) are located almost entirely within the VCA. This language has been added to ensure that reasonable and necessary accessory facilities are allowed in these situations.

3.332 18.20.494 - 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.

3.343 18.20.495 - 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 authorized use or development.
- B. The minimum width of Vegetation Conservation Areas is set forth in Table 6.3 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 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 18.20.493 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 not result in a net loss to shoreline ecological functions.
- D. When restoring or enhancing shoreline vegetation, applicants shall use 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.
- 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.

3.354 18.20.496 - 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 18.20.410(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:

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 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 18.20.410; and
- C. The Administrator may waive some but not all of the vegetation 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 to D above all required vegetation installation shall conform to the standards of section 18.20.410(F) and (G) of this SMP.

3.365 18.20.500 - 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 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.

3.376 18.20.504 - View Protection Regulations

- A. No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five (35) feet above average grade level that will obstruct the view of a substantial number of residences on 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 in the VCA shall be limited to four (4) feet in height between the Ordinary High Water Mark and primary structures. Outside of the VCA the fencing provisions in OMC 18.40 shall apply.

Commented [A67]: Per City staff review team request.

- 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.

3.387 18.20.507 - 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.

3.398 18.20.510 - 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.
- F. Dredging and dredge disposal activities must employ appropriate best management practices to prevent water quality impacts or other environmental degradation.

~~3.4039~~ 18.20.600 - Shoreline Use and Development – Intent

The purpose of ~~this sections~~ **18.20.600 through 18.20.710** 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 18.20.250, 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 18.20.400 through 18.20.510 and the shoreline modification provisions in OMC 18.20.800 through 18.20.930.

Commented [A69]: Revised language for greater clarity.

~~3.410~~ 18.20.610 - 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.
- B. All uses not explicitly permitted in this chapter shall require a Shoreline Conditional Use Permit. The Hearing Examiner may impose conditions to ensure that the proposed development meets the policies of Olympia’s Shoreline Program.
- C. All development and uses must conform to all applicable provisions of this Shoreline Program, including the shoreline use table and the development standards table in OMC 18.20.600 through 18.20.710, unless otherwise stated or upon approval of a shoreline variance.
- 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.

~~3.421~~ 18.20.620 - 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 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 18.20.420, 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.
- 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, the applicant shall demonstrate compliance with the mitigation sequence at a site level as provided in Section 18.20.410 of the SMP. Restoration incentives must be achieved onsite unless the Administrator finds this is not feasible or would have significantly less ecological benefit than offsite restoration. Offsite restoration shall be consistent with the objectives for mitigation outlined in OMC 18.20.410(H) and (I). Should no offsite restoration option be available, onsite restoration shall be required to obtain the associated setback reduction incentive.

2. 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 six (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. Trail shall be a commuter multi-use trail on a public easement no less than twelve (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.
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 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. Restoration ratios shall begin at 2 square feet of restoration for every one (1) square foot reduction of the required setback area and demonstrate no net loss of environmental function.
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.
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.
7. 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 OMC 18.20.410. 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 twelve (12) feet as described in paragraph 3 above;

- b. The shoreline bulkhead removal or hardening replacement requirements of 5 or 6 above are met for each linear foot of shoreline impacted and the applicant demonstrates that a reduced setback would not result in the need for future shoreline stabilization.
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.
9. Shoreline setbacks shall not apply to areas that are disconnected from the shoreline by an existing, legally established public road or other substantially developed surface which results in a functional disconnect from the shoreline. The applicant shall provide a biological assessment by a qualified professional that demonstrates the area is functionally isolated. The City shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation.

Commented [A70]: Per City staff review team request.

Commented [A71]: Modifications made to address comments from Dept. of Ecology in its Initial Determination, **Requirement #3.**

Ecology Requirement: Revisions are made for internal consistency with the proposed definition of "functional disconnect", to ensure determination of a functional disconnection is scientifically sound, and for consistency with the no net loss standard in WAC 173-26-201(2)(c).

Ecology Rationale: Ecology agrees with Washington Department of Fish and Wildlife that the presence of existing infrastructure or structures does not automatically equate to the absence of all shoreline ecological functions. Any claim that a "functional disconnect" exists should be demonstrated through an analysis by a qualified professional.

Table 6.1 – Uses and Activities

LEGEND: P = Permitted C = Shoreline Conditional Use Permit X = Prohibited

C/P = A Shoreline Conditional Use Permit or Shoreline Substantial Development Permit is required. A Shoreline Conditional Use Permit is required if any portion of the use or development activity is wholly or partially located within 100 feet of the OHWM; -when all uses and activities are located more than 100 feet from the OHWM a Shoreline Substantial Development Permit is required, are permitted.

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Agriculture								
Agriculture	X	X	X	X	X	X	X	X
Aquaculture								
Restoration and- Recovery of Native Populations	P	P	P	P	P	P	P	P
Commercial Aquaculture	C	C	C	C	C	C	X	C
Boating Facilities								
Marinas	P	P	X	X	X	P	X	C
Launch Ramps	P	P	P	P	P	P	X	P
<u>Upland</u> Boathouses & Storage Structures, <u>and</u> <u>Boathouses</u>	P	P	P	P	P	P	X	X
Overwater Covered Moorage <u>and</u> <u>Boathouses</u>	X	X	X	X	X	X	X	X
Commercial								
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
Industrial/Light Industrial								
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
Recreation								
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
Residential								

Commented [A72]: Revised language for greater clarity and consistency with SMP policies and regulations

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Residential	P	X	P	P	X	X	X	X
Transportation								
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
Utilities								
Utility Lines, Buildings and Facilities	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C
Other								
All Other Uses Not Listed Above	C	C	C	C	C	C	X	C
Mixed Use	C ² /P	C	C	C	C	C ² /P	X	X

¹ Uses listed as permitted or conditional in the Aquatic designation are allowed only if not prohibited in the adjacent upland shoreline designation.

² If all of the proposed uses are permitted, the mix of said permitted uses is also permitted. However, if one or more of the proposed uses is conditionally permitted, then the proposed mix would trigger a Shoreline Conditional Use Permit.

Table 6.2 – Development Standards (Heights)

Shoreline Environment	Shoreline 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	All	35 feet
Marine Recreation	Budd Inlet	40 feet; 25 feet within 75 feet of OHWM
Urban Intensity	Budd – 3A*	42 feet to 65 feet*
	Budd 6A & Capitol – 3B	65 feet
	Budd-4 and Budd-5A	35 feet water-ward of streets; 90 feet remainder
Port Marine Industrial	All	65 feet

*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	Vegetation Conservation Area	Setback and VCA with maximum reduction—Non-water dependent	Incentive eligible provisions – See 18.20.620(D)(1)	Shoreline Setback and VCA reduction	Required Standards
Aquatic	N/A	N/A	N/A	N/A	N/A	N/A
Natural	200'	200'	N/A	N/A	N/A	N/A
Urban Conservancy	100'	50'	N/A	N/A	N/A	N/A
Shoreline Residential - Ward Lake	75' ²	20'	N/A	N/A	N/A	N/A
Shoreline Residential – Ken Lake, Budd Inlet	30'	20'	N/A	N/A	N/A	N/A
Marine Recreation – Budd 5C	75'	30'	50'	Physical Access	7'	See 18.20.620(D)(2)
				Trail	7'	See 18.20.620(D)(3)
				Restoration of vegetation	Up to 7'	See 18.20.620(D)(4)
				Bulkhead Removal >50% frontage	10'	See 18.20.620(D)(5)
				Bulkhead Removal <50% frontage	5'	See 18.20.620(D)(5)
				Replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.	12.5'	See 18.20.620(D)(6)
Water Dependent Uses Reduce from 75' to 20' or 0'.				Water Dependent Use	55' or 100% (75')	See 18.20.620(D)(7)
Waterfront Recreation – Budd 3B	50'-150' or the east side of West Bay Drive whichever is less.	50'-150' or the east side of West Bay Drive whichever is less.	150'-50'	N/A	N/A	N/A

Commented [A73]: Per City review team request.

Commented [A74]: Per City review team request, to allow future park improvements (trail, restroom, etc.) at West Bay Park. Currently, almost all existing park improvements are nonconforming because the VCA covers already developed areas. See the West Bay Park Recreation Trail and Restoration Analysis Report completed in 2019 for a description of existing conditions.

Commented [A75R74]: Per PC discussion, the proposed setback has been adjusted to 50'

Shoreline Environment	Shoreline Setback	Vegetation Conservation Area	Setback and VCA with maximum reduction—Non-water dependent	Incentive eligible provisions – See 18.20.620(D)(1)	Shoreline Setback and VCA reduction	Required Standards
Water Dependent Uses Reduce from 30' to 0'				Water Dependent Use	100% (30')	See 18.20.620(D)(7)
Waterfront Recreation – Cap 6	30'	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 0'				Water Dependent Use	100% (30')	See 18.20.620(D)(7)
Waterfront Recreation Cap-7 (Marathon Park)	30'	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 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' to 0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 4	30'	0'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 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' to 0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 6A	100'	0'	100'	N/A	N/A	N/A
Port Marine Industrial – Budd 5B	0'	0'	0'	N/A	N/A	See 18.20.620(D)(8)

Commented [A73]: Per City review team request.

3.432 18.20.630 - 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 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 of 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.

3.443 18.20.640 - 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.
- 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.
- 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 18.20.120. 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 OMC 18.20.410(B).
- 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 meet all minimum permit requirements and contain all of the items identified in WAC 173-26-241(3)(b)(iv)(F).

Commented [A76]: Per Gap Analysis Report – Table 2, Item 2011b

3.454 18.20.650 - 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 18.20.450.
- 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.

3.465 18.20.652 - 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.

3.476 18.20.654 - 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 area has adequate water circulation and flushing action, and the marina is designed so that it does not negatively influence flushing characteristics;
 - 5. The proposed location will not require excavation and/or filling of wetlands or stream channels; and
 - 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:

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 18.20.450, 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. This provision shall not apply to live-aboard vessels expressly approved as part of a marina. 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.
 7. Live-aboard vessels are permitted in marinas only as follows:
 - a. if adequate solid waste and sanitary sewer disposal facilities are provided and maintained;
 - b. Vessels must be for residential use only;
 - c. Slips occupied by live-aboard vessels shall not exceed 20 percent of the total slips in the marina; and
 - d. Vessels must be operational for cruising.
 - 6.8. Liveaboard vessels must comply with all marine regulations, policies and procedures of the U.S. Coast Guard, and any other federal and state government agencies that pertain to health, safety and/or environmental protection. Proof of seaworthiness of the vessel and the adequacy of the mooring arrangement must be provided and laws of the City must be obeyed.
 - 7.9. 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;
 - 8.10. Marinas shall provide pump-out, holding and/or treatment facilities for sewage contained on boats or vessels;
 - 9.11. 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;
 - 10.12. Marinas shall have facilities and established procedures for the containment and recovery of spilled petroleum or toxic products; and
 - 11.13. 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;

Commented [A77]: Per Gap Analysis Report – Table 8, Item 5

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;
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.

~~3.487~~ 18.20.656 - 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.

~~3.498~~ 18.20.658 - Covered Moorage

- A. New overwater covered moorage and the expansion of existing covered moorage is prohibited.

~~3.5049~~ 18.20.660 - 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 18.20.450.
- C. Vegetation conservation areas, as required per Table 6.3, shall be provided and planted pursuant to the provisions in Section 18.20.492.
- D. Commercial development shall not impact the rights of navigation.
- E. Home occupations are not considered to be commercial uses.

3.510 18.20.663 - 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.

3.521 18.20.667 - 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.

3.532 18.20.670 - 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. The expansion of existing non-water-related or non-water dependent industrial uses shall require a Shoreline Conditional Use Permit in accordance with OMC 18.20.250(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. 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.

3.543 18.20.680 - 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 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.
- 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 18.20.660, 18.20.663, and 18.20.667.
- 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.

3.554 18.20.690 - 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.
- 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 18.20.492;
 - 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 VCA and native vegetation covers a minimum of 75 percent of the VCA;
 - 2. Within 25 feet of the Ordinary High Water Mark, for every one square foot of waterfront deck or patio in the VCA, three square feet of vegetation shall be provided in the VCA;
 - 3. The total area of the waterfront deck or patio shall not exceed 400 square feet;
 - 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 18.20.450.
- 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.

3.565 18.20.700 - 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 roadway expansions shall not compromise existing and planned shoreline public access 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.
- 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 18.20.410(B). Where feasible new public trails and shared use paths shall use abandoned rail corridors to minimize disturbance of the shoreline.

F. Special procedures for WSDOT projects:

1. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

1-2. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

Commented [A78]: Per Gap Analysis Report – Table 2, Item 2015a

3.576 18.20.710 - 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.

3.587 18.20.800 - 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 18.20.600 through 18.20.710 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 18.20.410(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.
- 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.

3.598 18.20.810 - 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.

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/P – Permitted only in specific cases. 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 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20.840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/P See OMC 18.20.870 18.20.864	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

Commented [A79]: Hard armor stabilization can be a permitted use if the action complies with the Shoreline Program. It should not automatically require a Conditional Use Permit. However, it is not an outright allowance. An applicant must comply with the provisions in 18.20.864.

3.6059 18.20.820 - 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; and
 - b. The utility installation does not increase or decrease the natural rate, extent or opportunity of channel migration; ~~and~~
- C. Dredging and dredge material disposal activities must employ appropriate best management practices ~~are employed~~ to prevent water quality impacts or other environmental degradation, in accordance with OMC 18.20.510.
- D. 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.
- E. 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.
- F. Dredging for the primary purpose of obtaining material for landfill is prohibited.
- G. The disposal of dredge ~~spoils materials~~ in open water or on upland sites within shoreline jurisdiction is prohibited unless for beneficial uses such as shoreline restoration or enhancement.

Commented [A80]: Per Gap Analysis Report – Appendix A, Item 79

Revised such that this provision would apply to all proposals for dredging and dredge spoil disposal.

Commented [A81]: Per PC, change term “dredge spoils” to “dredge materials”

- H. 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;
 - 2. The project is designed to minimize its impact on the environment; and
 - 3. The facility is in the public interest.
- I. 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 18.20.410(B).

3.610 18.20.830 - 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.

3.621 18.20.833 - 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 18.20.410(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. 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.
- 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 Master Program and the mitigation sequencing process.

3.632 18.20.837 - 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 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;
 - 5. Construction of protective berms or other structures to prevent the inundation of water resulting from sea level rise shall be allowed subject to all other provisions of this Master Program and the mitigation sequencing process when there are no other feasible options to protect existing development;
 - 6. Public access; or
 - 7. Cleanup of contaminated sites.
- B. Fill shall be the minimum necessary for the intended use or activity.

3.643 18.20.840 - 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 18.20.410(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 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.

3.654 18.20.842 - 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.

3.665 18.20.844 - 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 18.20.654.
- 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.
- F. 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.
- G. All docks, piers, and floats shall be painted, marked with reflectors, or otherwise identified so that they are visible during day or night.
- H. Placing fill water-ward of the Ordinary High Water Mark for purposes of constructing a dock or pier is prohibited.

3.676 18.20.846 - 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. Docks and piers shall be set back from the side property line twenty (20) feet on marine waters, unless designated for shared use between adjacent property owners;
 - 2. Residential piers shall not exceed 4 feet in width. ~~The dock/pier surface must be grated and must incorporate a minimum of 60 percent grating or at the percentage required in a Hydraulic Permit Approval (HPA) from by the Department of Fish and Wildlife in WAC 220-660-380;~~
 - 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;
 - 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 dock's flotation is a minimum of 1 foot above the level of the beach substrate;
 - 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;
 - 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

Commented [A82]: Per Gap Analysis Report – Appendix A, Item 80

habitats of special concern as defined by the Department of Fish and Wildlife in WAC 220-660-310;

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. 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.

3.687 18.20.847 - 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. Pier and dock surface coverage shall not exceed the following:
 - 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.
 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 disability accommodation. ~~Sixty (60) percent of t~~The dock/ pier surface area must be grated ~~or at~~ the percentage required ~~in a Hydraulic Permit Approval (HPA) from by~~ the Department of Fish and Wildlife ~~in WAC 220-660-140;~~
 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 dock's flotation is a minimum of one foot above the level of the beach substrate;

Commented [A83]: Per Gap Analysis Report – Appendix A, Item 80

5. Except for docks with floats, the bottom of all structures shall be a minimum of one and one-half feet above the water level established by the Ordinary High Water Mark;
 6. Floats or ells shall be oriented and grated at the percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife.
 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.

3.698 18.20.848 - 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, 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 shall comply with the following standards:
1. ~~Floats orientation shall be oriented and the incorporation of functional grating into the float surface area shall be in accordance at a percentage as required with in a Hydraulic Permit~~

~~Approval (HPA) from the~~ Department of Fish and Wildlife ~~requirements in WAC 220-660-140 for freshwater floats or WAC 220-660-380 for marine floats.~~

Commented [A84]: Per Gap Analysis Report – Appendix A, Item 80

2. For recreational floats anchored utilizing 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.

~~3.7069~~ 18.20.850 - 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 original 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. [The 2016 West Bay Environmental Restoration Assessment provides conceptual restoration approaches for some shoreline reaches.](#)

Commented [A85]: Per City staff review team request.

~~3.710~~ 18.20.855 - 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. 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 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.

3.724 18.20.857 - Instream Structures

Instream structures are permitted only when necessary for a restoration or enhancement project, to improve fish passage, or for permitted transportation or utility crossings and subject to the following requirements:

- A. 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;
- B. 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;
- C. 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;
- D. Instream structures shall be designed based on an analysis of the reach or reaches to avoid the need for structural shoreline armoring; and

- E. 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.

3.732 18.20.860 - 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.

3.743 18.20.862 - 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 a geotechnical analysis of the site and shoreline characteristics. New development that would require shoreline stabilization which results in significant impacts to adjacent or down current properties will not be allowed.
- 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 is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal actions, currents, and waves;
 - 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; and
 - 4. The erosion control structure will not result in a net loss of shoreline ecological functions or processes.
- C. New water dependent development or new structural shoreline stabilization for existing water dependent development will not be allowed unless all of the conditions in B 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.

3.754 18.20.864 - 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.
- 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. 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 18.20.410(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 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~~.

Commented [A86]: Removed in response to WDFW comment

- I. Following completion of shoreline modification activities, disturbed areas shall be restored using native vegetation (see OMC 18.20.495 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.

3.765 18.20.866 - 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 increases 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.

3.776 18.20.868 - 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.
 - 1. Within the project area of the Olympia Sea Level Rise Response Plan (2019), consideration of sea level rise projections may be used to determine the minimum necessary size of shoreline stabilization structures in accordance with the plan.
- ~~B.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.
- ~~C.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.

Commented [A87]: Per Gap Analysis Report – Table 7, Item 3

~~D-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.

~~E-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. Where hard armoring is approved, materials shall be used in the following order of priority:

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. If no VCA is established in OMC 18.20.620 Table 6.3, 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 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.

I. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.20.410(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.

~~3.787~~ 18.20.870 - 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 three years, the report may still be used to justify more immediate authorization to protect against erosion using soft armoring.

3.798 18.20.872 - 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 a 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 18.20.410(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 18.20.410 (B).

3.8079 18.20.874 - Breakwaters, Jetties, Groins, and Weirs - Environment Designations

Breakwaters, jetties, groins and weirs are permitted only adjacent to the Urban Intensity and Port Marine 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.

3.810 18.20.900 - 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 or any amendment thereto, which is rendered nonconforming by this Shoreline Program may continue and may also be repaired, remodeled, and/or ~~replaced~~restored in the manner and to the extent that it existed upon the effective date of this Shoreline Program. ~~Such structures may also be expanded in accordance with the provisions of this Section 18.20.910.~~
- B. In addition to and independent of the provisions below, 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 18.20 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 includes appropriate mitigation, and the development is not likely to result in a net loss of shoreline ecological functions.

Commented [A88]: Per City staff review team request.

Commented [A89]: Per Gap Analysis Report – Table 7, Item 3

3.824 18.20.910 - Alteration of Nonconforming Structures in Shoreline Jurisdiction

- A. Shoreline Structures – The following regulations apply to nonconforming structures located in shoreline jurisdiction. Alterations pursuant to this section shall not result in a net loss of shoreline ecological functions and processes. The applicant shall obtain all required permits or approvals prior to construction. All alterations shall comply with applicable development regulations.
 - 1. Structures within Shoreline Setbacks - 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 into 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 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. Any 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 shoreline variance.

2. Overwater Structures – Alteration of structures located water-ward of the Ordinary High Water Mark is prohibited except:
 - a. Alterations to the footprint or building envelope may be permitted when required by Washington State Department of Natural Resources for light penetration;
 - b. Alterations that do not increase or expand the building footprint nor increase the height are permitted; and
 - c. Existing covered moorage may be maintained, repaired or replaced pursuant to WAC 173-27-040.
3. Structures within Vegetation Conservation Areas. Alteration of structures located landward of the Ordinary High Water within a required Vegetation Conservation Area (VCA) that include expansion of the building footprint is prohibited. Only interior and exterior remodels and the addition of upper stories are permitted.

4. Structurally raising the floor elevation of an existing legally established nonconforming structure, which is necessary to protect the structure from flooding due to sea level rise, shall be allowed in accordance with the height limits set forth in Table 6.2. Raising the floor elevation is not allowed for legally established nonconforming overwater structures.

Commented [A90]: Per Gap Analysis Report – Table 7, Item 3

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~~ reconstructed within the existing footprint. Any modifications outside of the existing footprint must comply with OMC 18.20.910.
2. 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.

Commented [A91]: Per City review team request.

3.832 18.20.920 - Existing Nonconforming Shoreline Uses

- A. Conversion and discontinuation of nonconforming uses in shoreline jurisdiction shall be governed by OMC 18.37.060(A) and (E).
- B. Expansion of nonconforming shoreline uses. The hearings examiner may authorize expansion of a use that does not conform to the Shoreline Master Program if the applicant demonstrates all of the following:
 1. 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. Provided, however, that expansion of uses in shoreline jurisdiction that are also nonconforming with zoning use restrictions are not authorized by this section. See OMC 18.37.060(B).

3.843 18.20.930 - Existing Nonconforming Shoreline Lots

- A. An undeveloped lot, tract, parcel, site, or division of land located landward of the Ordinary High Water Mark which was established in accordance with local and state subdivision requirements

prior to the effective date of the Shoreline Master Program which does not conform to the present lot size standards of the Program may be developed if the lot conforms with OMC 18.37.080 and the development conforms to all other requirements of the Master Program.

Chapter 18.32
CRITICAL AREAS

...

18.32.400 Streams and Priority Riparian Areas – Purpose and Intent

In order to preserve the natural functions of streams and "priority riparian areas" by controlling siltation, minimizing turbidity, protecting nutrient reserves, maintaining stream flows, providing a source of large woody debris, preserving natural flood storage capacities, protecting fish bearing waters, preserving overhanging vegetation, providing groundwater recharge, and protecting the wildlife habitat associated with streams and intact riparian areas of marine and lake shorelines, all areas within three hundred (300) feet of such waters shall be subject to the standards in OMC 18.32.405 through OMC 18.32.445. (Note: Further information regarding development along marine shorelines, lakes over 20 acres in size, and streams can be found in the City's Shoreline Master Program).

18.32.405 Streams and Priority Riparian Areas – Applicability and Definition

A. "Streams" means an area where surface waters flow sufficiently to produce a defined channel or bed, i.e., an area which demonstrates clear evidence of the passage of water including but not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction.

B. "Priority Riparian Areas" means those marine and lake shorelines, as measured from the ordinary high water mark, in the following locations:

1. The eastern shore of Budd Inlet from the southern property line of Priest Point Park northward to the city limits;
2. The western shore of Budd Inlet (in the Port Lagoon) from 4th Avenue NW northward to the extension of Jackson Avenue NW, but not including the BNSF railroad causeway and trestle or their western or eastern shores; West Bay Drive NW; Olympic Way NW; and parcels west of the rights-of-ways of West Bay Drive NW and Olympic Way NW;
3. The western shore of Budd Inlet (north of West Bay Drive) from the extension of 24th Avenue NW northward to the city limits, being approximately six hundred and fifty (650) feet from the end of the fill to the city limits;
4. The eastern shore of Capitol Lake (in the Middle Basin) from the extension of 13th Avenue SE (Olmsted Brothers Axis) southward to the right of way of Interstate 5;
5. The eastern shore of Capitol Lake (in the South Basin) from the right of way of Interstate 5 southward to the city limits; and
6. The western shore of Capitol Lake (in Percival Cove) from the intersection of Lakeridge Drive SW and Deschutes Parkway SW westward to the mouth of Percival Creek (a point due north of the terminus of Evergreen Park Court SW).

18.32.410 Streams and Priority Riparian Areas – Typing System

Streams are grouped into categories according to the Washington Department of Natural Resources Water Typing System. The criteria, definitions and methods for determining the water type of a stream are found in WAC 222-16-031.

A. "Type S watersstreams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type S Water. Type S watersstreams contain fish habitat.

Commented [JP1]: Staff had proposed significant revisions to this section to address public comments and to help clarify when the SMP (which covers all marine waters and some lakes and streams) applies and when the CAO provisions apply. Ecology is recommending this section remain unchanged and offers later amendments to help provide that clarity.

Ecology rationale: The City's proposed revision appears to entirely alter the definition of "priority riparian areas" from certain marine and lake shorelines, all of which are Type S waters, to non-shoreline lakes which necessarily means lakes less than 20 acres in size.

Commented [JP2]: Ecology suggested leaving Type S waters in the Typing System section, which staff had proposed removing since Type S waters are subject to the SMP. Ecology suggested minor edits based on WAC 222-16-031. (Ecology recommendation #7)

- B. "Type F streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type F Water. Type F streams contain fish habitat.
- C. "Type Np streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type Np Water. Type Np streams do not contain fish habitat.
- D. "Type Ns streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type Ns Water. These streams are areas of perennial or intermittent seepage, and ponds and drainage ways having short periods of spring or storm runoff. Type Ns streams do not contain fish habitat.
- E. Waters having any of the following characteristics are presumed to have fish use:
 1. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient of 16 percent or less;
 2. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size based on hydrographic boundaries;
 3. Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;
 4. Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water.

18.32.435 Streams and Priority Riparian Areas – Buffers

- A. Buffers shall be required as set forth for each stream type or "priority riparian area." The required buffers shall be delineated, both on a site plan or plat and on the property, prior to approval of any regulated activity.
- B. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers.
- C. Stream buffers shall be based on the water type classification as established by the Department of Natural Resources Stream Typing Classification System and required by OMC 18.32.410. The table below includes detail differentiating stream types based on fish habitat presence, stream widths, and mass wasting potential:

Stream Type and Description	Buffer
Type S waters – Shorelines of the State	250 feet Refer to SMP 18.20.620, Table 6-3 for the Shoreline Setback and Vegetation Conservation Areas
Priority Riparian Areas	250 feet
Type F streams greater than 5 feet wide (bankfull width) that provide habitat for fish	250 feet
Type F streams less than 5 feet wide (bankfull width) that provide habitat for fish	200 feet
Type Np and Ns streams (no fish habitat) with high mass wasting potential	225 feet
Type Np and Ns streams (no fish habitat) without high mass wasting potential	150 feet

1. Stream buffers shall be measured on a horizontal plane, outward from the ordinary high water mark (OHWM) on each side of the stream. (See Figure 32-1).
2. For streams that occur within ravines (which are not designated as a landslide hazard area) and where the standard buffer extends onto a slope of 30% or greater that is at least 10 feet in height, the buffer shall extend a minimum of 25 feet beyond the top of the slope to protect the stream channel from sediment loading from mass

The Olympia Municipal Code is current through Ordinance 7250, passed September 15, 2020.

Commented [JP3]: Ecology suggests retaining Type S waters in the table, which staff had proposed deleting since shorelines of the state are governed by the SMP for setbacks and Vegetation Conservation Area width requirements.

Ecology recommendation: Retain the Type S water type in the table and add language referencing the SMP provision which establishes shoreline setbacks and vegetation conservation areas. The City could also consider making changes to references throughout OMC 18.32.400-435, replacing "streams" with "waters".

wasting events (e.g., landslides, earth/debris flows and slumps, and rock falls/earth topples) and reduce the risk to structures and human safety.

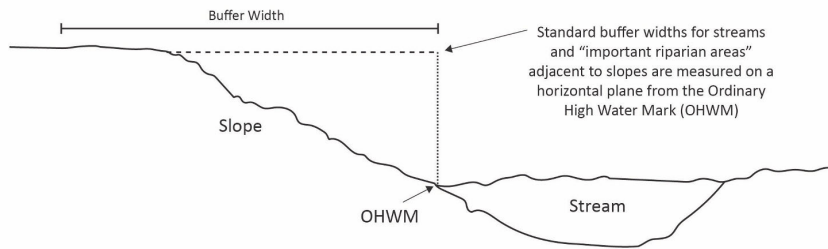


FIGURE 32-1

D. Maintain a buffer of existing vegetation for "priority riparian areas" as defined in OMC 18.32.405.

E. The stream or "priority riparian area" buffer widths contained in OMC 18.32.435 C presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted with a density and species composition commonly found in comparable but healthy riparian areas of Thurston County and as approved by the City of Olympia Urban Forester.

F. The Department may reduce the required stream or "priority riparian area" buffer widths up to twenty five percent (25%) on a case-by-case basis in accordance with a Biological Assessment described in OMC 18.32.445 when it can be demonstrated that:

1. The existing buffer area is not a high functioning buffer but instead is currently providing reduced functions due to existing land uses or previous alterations;
2. Protection of the stream or "priority riparian area" buffer using a fence and sign have been provided, as described in OMC 18.32.145;
3. Topographic conditions of the site and the buffer are protective of the stream;
4. The intensity and type of the land uses adjacent to the buffer will minimize potential adverse impacts upon the stream and wildlife habitat; [e.g., publicly owned parks, designated open space areas in plats and binding site plans, or lands with a recorded conservation easement];
5. The site design and building layout will minimize potential adverse impacts upon the stream and wildlife habitat;
6. The smaller buffer will be adequate to protect the functions of the stream based on the best available science; and
7. Alternative mitigation measures as provided in "Land Use Planning for Salmon, Steelhead and Trout: A Land planner's guide to salmonid habitat protection and recovery," Washington Department of Fish and Wildlife, 2009, have been proposed by the applicant and approved by the Department.

G. If a stream segment is removed from a culvert it will not be required to meet the stream buffer requirements of OMC 18.32.435. It shall comply with the purpose and intent of this title to the degree possible, as determined by the Department.

H. The required stream buffer widths shall be increased when the Department determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the stream and/or to protect habitat corridors between streams and other habitats.

18.32.510 Wetlands – Rating System

A. The Washington State Wetland Rating System for Western Washington (2014 update) as amended or revised, shall be used to determine if the wetland is a Category I, II, III or IV wetland. These documents contain the criteria, definitions and methods for determining if the criteria below are met.

1. Category I wetlands are (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

2. Category II wetlands are (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring ~~between 20 to~~ 22 points).

3. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

B. Wetland rating categories shall be applied as the wetland exists on the date of application. However, wetland ratings shall not recognize alterations resulting from illegal activities.

18.32.535 Wetlands – Wetland Buffers

A. Wetland buffer areas shall be maintained between all regulated activities and wetlands to retain the wetland's natural functions and values. Wetland buffers are based upon the rating of the wetland pursuant to OMC 18.32.575.

B. The required width of the wetland buffer shall be determined as provided in the table below.

Table 32-1: Wetland Buffer Widths

Wetland Characteristics	Wetland Buffer Width
Natural Heritage Wetlands	Not less than 250 feet
Wetlands of High Conservation Value and Bogs	Not less than 250 feet
Estuarine - Category I	250 feet
Estuarine - Category II	150 feet
Habitat score: 3 pts	100 80 feet
Habitat score: 4 pts	100 feet
Habitat score: 5 pts	140 feet

Commented [JP4]: Per Gap Analysis Report – Table 3, Item 2

Wetland Characteristics	Wetland Buffer Width
Habitat score: 6 pts	180 feet
Habitat score: 7 pts	220 feet
Habitat score: 8 pts	260 feet
Habitat score: 9 pts	300 feet
Water Quality Improvement Score: 8 - 9 pts, and Habitat score: 4 pts or less	100 feet
Category I or II Wetland - Not meeting any of the above criteria	100 feet
Category III Wetland - Not meeting any of the above criteria	80 feet
Category IV Wetland - Score for all three wetland functions is less than 16 pts	50 feet

C. All wetland buffers shall be measured from the wetland boundary.

D. The wetland buffer widths contained in OMC 18.32.535 Table 32-1 presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted with native trees to a density common in the specific buffer area and an understory of native plants commonly found in riparian areas of Thurston County.

E. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

F. The Department may allow modification of the required wetland buffer width by either allowing a reduction pursuant to OMC 18.32.535(G) or by allowing averaging of buffer widths when all of the following conditions are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area,
2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion,
3. The total area of the buffer after averaging is equal to the area required without averaging, and
4. The buffer at its narrowest point is never less than seventy five percent (75%) of the required width.

G. If buffer averaging has not been used, the Department may reduce the required wetland buffer widths by twenty five percent (25%) under the following conditions:

1. For wetlands that score ~~five (5)~~six (6) points or more for the habitat functions, if both of the following criteria are met:
 - a. A relatively undisturbed, vegetated corridor at least one hundred (100) feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the priority habitat by legal protection such as a conservation easement.
 - b. Measures to minimize the impacts of different land uses on wetlands, such as those described ~~on Table 8e8, Appendix 8-C, of Wetlands in Washington State—Volume 2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008 in Wetland Guidance for CAO Updates, Western Washington (2016) Ecology publication #16-06-001,~~ as amended or revised, are applied. Examples of these measures include directing lighting away from wetland, locating noise generating

Commented [JP5]: Edits in this subsection are adjusted to meet Ecology's 2018 guidance

activities away from the wetland, and densely planting the buffer to act as barrier to pets and human disturbance.

2. For wetlands that score ~~four (4)~~ five (5) points or less for habitat function, apply the provisions of OMC 18.32.535(G)(1)(b).

H. The Department or Hearing Examiner, as appropriate, shall require increased buffer widths in accordance with the recommendations of an experienced, qualified wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

1. A larger buffer is needed to protect other critical areas;
2. The buffer or adjacent uplands has a slope greater than fifteen percent (15%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or
3. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three (3) feet on center for shrubs and eight (8) feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of non-native plants when:
 - a. non-native or invasive plant species provide the dominant cover,
 - b. vegetation is lacking due to disturbance and wetland resources could be adversely affected, or
 - c. enhancement plantings in the buffer could significantly improve buffer functions.

TO: Joyce Phillips, Principle Planner, City of Olympia
CC: Jackie Chandler, Shoreline Administrator, WA Department of Ecology
FROM: Kim Van Zwalenburg, Senior Shoreline Planner, WA Department of Ecology
Date: March 19, 2021
Subject: **SMP Periodic Review** - Initial Determination of Consistency
Sent via email to: jphillip@ci.olympia.wa.us

Use of this Document

Ecology's *Determination of Initial Concurrence* provides Ecology's review of the proposed amendment to the City of Olympia (City) Shoreline Master Program (SMP). This document is divided into two sections: **Findings of Fact**, which provides findings related to the City's proposed amendment, amendment history, and the review process and **Initial Determination** of the proposed amendment with next steps.

Attachment 1 itemizes issues that can be addressed prior to Ecology's final approval of the proposed amendment.

Brief Description of Proposed Amendment

The City of Olympia is undergoing a statutorily required periodic review of their Shoreline Master Program (SMP) and has submitted their draft SMP amendment to Ecology for an initial determination as required by the joint review process and consistent with WAC 173-26-104(3). The SMP regulates shoreline uses and activities along Grass Lake, Capitol Lake, Ward Lake, Ken Lake, Percival Creek and the marine shorelines of lower Budd Inlet within city limits.

FINDINGS OF FACT

Need for amendment

Olympia comprehensively updated their master program in October 2015 and amended their SMP in 2018 to incorporate updated critical area regulations. This current amendment is needed to comply with the statutory deadline for a periodic review of the SMP pursuant to RCW 90.58.080(4).

SMP provisions to be changed by the amendment as proposed

The City prepared a checklist and an analysis documenting the proposed amendment. The amendment will bring the SMP into compliance with requirements of the Shoreline Management Act, or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate revisions deemed necessary to reflect changed circumstances, new information, or improved data. Locally initiated changes include provisions incorporating the City's Sea Level Rise Response Plan in to the SMP, addressing waterfront recreation and the Vegetation Conservation Area on West Bay, more specifically addressing live-aboards in marinas, and allowing for recreational camping in the Marine Recreation environment on the east side of the Port Peninsula.

In addition to overarching organizational changes, general edits to correct and update syntax, and formatting and citation corrections, the following amendments to the SMP are proposed:

A. Section I. General Provisions

1. The summary table of Regulatory and Policy Tools is updated to note the inclusion of Seal Level Rise into the SMP. An update to the adoption date of the referenced Critical Areas Ordinance is added to 1.6.

B. Section 2. Goals and Policies

1. Consideration of sea level rise is added to the following policy sections: 2.1 Shoreline Master Program Goals and Policies, 2.4 Shoreline Use and Development Policies, 2.16 Scientific and Educational Activity Policies, 2.27 Residential Policies, 2.28 Transportation Policies, 2.29 Utility Policies, 2.32 Fill Policies, and 2.35 Shoreline Stabilization Policies are revised to include sea level rise considerations [2.1 H, 2.4 F, 2.16 A, 2.27 C, 2.28 A, 2.29 A, 2.32 C, 2.35 B, 2.35 E]
2. Reference to the West Bay Environmental Restoration Assessment Report¹ is added to the following policy sections: 2.3. Shoreline Ecological Protection and Mitigation Policies, 2.5 Aquatic Environment Management Policies, 2.34 Restoration and Enhancement Policies, and 2.35 Shoreline Stabilization Policies. [2.3 I, 2.5 H, 2.34 M, 2.35 E]
3. 2.4 Shoreline Use and Development Policies adds new policy G, relocated from section 2.5, establishing the need to reserve space for preferred shoreline uses.
4. 2.5 Aquatic Environment Management Policies has a number of edits for improved clarity [B, D, E] and adds a new policy [H] encouraging soft shore stabilization or habitat restoration to improve ecological functions.
5. 2.6 Natural Environment Management Policies has a clarifying edit. [A.2]
6. 2.9 Marine Recreation Environment Management Policies includes two edits for clarity. [A, E]
7. 2.10 Shoreline Residential Environment Management Policies has one clarifying edit. [G]
8. 2.11 Urban Intensity Environment Management Policies has a number of clarifying edits. [E, F, G, H, J]
9. 2.14 Parking Policies has one clarifying edit. [C]
10. 2.15 Public Access Policies adds a new policy to clarify when on-site public access may not be required. [K]
11. 2.18 Vegetation Conservation Area Policies is revised encouraging education addressing proper use of fertilizers and pesticides in the shoreline. [F]
12. 2.23 Boating Facilities Policies is revised adding new language listing preferred design elements to lessen impacts from overwater structures and clarifying covered boathouses should be prohibited. [F]
13. 2.31 Dredging Policies is revised for improved clarity [C, F] and adds a statement clarifying the need to avoid and minimize impacts from dredge disposal [G].
14. 2.32 Fill Policies adds ecological restoration to the list of allowable activities which may require fill waterward of the ordinary high water mark. [E]

¹ Coast & Harbor Engineering. *West Bay Environmental Restoration Assessment, Final Report*. City of Olympia, 2016. <https://olympiawa.gov/~media/Files/PublicWorks/Water-Resources/WestBay-Environmental-Restoration-Assessment.pdf?la=en> This report provides an assessment of environmental restoration opportunities for the West Bay shoreline of Olympia.

C. Section 3 Regulations

1. 3.3 18.20.120² - Interpretation and Definitions - Definitions for the following terms are added: camping facilities, functional disconnect, live-aboard vessel, nonconforming development or nonconforming structure, nonconforming lot, nonconforming use.
2. 3.6 18.20.215 – Exceptions to Local Review is a new subsection added consistent with Ecology recommendations addressing WAC 173-26-044 and WAC 173-26-045.
3. 3.13³ 18.20.280 – Shoreline Permit Procedures is revised to clarify the roles of the Administrator and the Hearings Examiner [C], clarify the appeals process [E, F] and add language directing submittal of permit revisions to Ecology. [F] Other minor edits are made. [D, G]
4. 3.14 18.20.285 - Amendments is revised adding the optional joint review process for SMP amendments. [D]
5. 3.17 18.20.300 – Shoreline Jurisdiction is revised adding language to clarify how to regulate parcels and structures that may be partially in and partially out of shoreline jurisdiction. [C]
6. 3.21 18.20.400 – General Regulations – Intent is revised to better clarify which regulations apply to all uses and activities in all shoreline environments.
7. 3.23 18.20.420 – Critical Areas is revised to reference the updated critical area regulations ordinance number and date. [A]
8. 3.24 18.20.430 – Archaeological, Historic, and Cultural Resources is revised adding cross-references to the City’s Historic Preservation Code and to Ecology’s rule provisions on archaeological and historic references in WAC 173-26-221. [D]
9. 3.26 18.20.450 - Public Access – Two new conditions are added to the list allowing the Administrator to waive the public access requirement for privately-funded projects. A waiver could be allowed for sites functionally disconnected from the shoreline by a legally established road or other substantial developed surface, or when public access already exists in the immediate vicinity or is already adequate and documented at the property. “Immediate vicinity” means there are public access areas within 1/8 mile of the development, increased to ¼ mile with seating along the route and safe pedestrian access between the development and the public access areas. [C.5, C.6]
10. 3.27 18.20.460 – Design of Public Access – A companion change (to the immediately preceding revision in 3.26) is made, allowing for a waiver to the requirement for a public viewing area when all conditions are met: the site is disconnected from the shoreline, public access areas are within a short distance of the site and there is safe pedestrian access to the public access areas. [A.5]
11. 3.32 18.20.493 – Permitted Uses and Activities within Vegetation Conservation Areas is revised to allow for restrooms within the VCA when no suitable location exists elsewhere at public parks and water related recreation areas only. [A.10]
12. 3.37 18.20.504 – View Protection Regulations is revised to clarify that fences in the VCA are limited to a height of 4 feet between the OHWM and primary structures. Outside the VCA, the fencing provisions forth in OMC 18.40 apply. [I]

² The SMP includes cross references between the stand-alone document and codified elements. In this instance, subsection 3.3 is cross-referenced to Olympia Municipal Code (OMC) 18.20.120.

³ Subsection numbers in Section 3 reflect updated numbering resulting from the addition of the new 3.6.

13. 3.39 18.20.510 – Water Quality includes a new provision requiring dredging and dredge disposal use best management practices to prevent impacts to water quality or other environmental impacts. [F]
14. 3.40 18.20.600 – Shoreline Use and Development – Intent is edited for improved clarity.
15. 3.42 18.20.620 – Use and Development Standards Tables includes the following revisions:
 - a. A provision is added allowing for setbacks to be waived on areas functionally disconnected from the shoreline by a legally established road. [D.9]
 - b. Table 6.1 – Uses and Activities is edited for improved clarity and internal consistency with SMP policies and regulations (boating facilities) and a new footnote clarifying permitting of Mixed Use activities.
 - c. Table 6.3 – Setbacks and Incentives is revised adding the VCA to the column titles related to setbacks, revises the setback in Waterfront Recreation – 3B from 150’ down to 50’ and adds a line clarifying the setback for water dependent uses is 0’.
16. 3.44 18.20.640 – Aquaculture includes a new provision requiring geoduck aquaculture shall meet all minimum permit requirements [E].
17. 3.47 18.20.654 – Marinas adds clarifications and a new provision related to live-aboards in marinas, including a cap on the number of slips occupied by live-aboards at 20 percent of the total slips in a marina [B.6, B.7, B.8].
18. 3.56 18.20.700 – Transportation and Trail Facilities includes a new provision addressing special procedures for Washington Dept. of Transportation projects [F].
19. 3.59 18.20.810 – Permitted Shoreline Modifications Table 7.1 – Shoreline Modifications is revised to allow hard shoreline armoring under certain limited circumstances without a Conditional Use Permit.
20. 3.60 18.20.820 – Dredging includes edits for improved clarity and a revision to ensure all dredging and dredge material disposal activities use best management practices to prevent impacts to water quality and the environment [B.8, C, G].
21. 3.67 18.20.846 – Marine Docks and Piers includes a revision requiring grating of the dock/pier surface consistent with the Department of Fish and Wildlife (DFW) rule [B.2].
22. 3.68 18.20.847 – Fresh Water Docks and Piers includes a similar provision to grate the surface area consistent with the DFW rule [B.3].
23. 3.69 18.20.848 – Float Standards – DFW standards on orientation and functional grating is required consistent with their rule [D.1].
24. 3.70 18.20.850 – Shoreline Restoration and Enhancement – Intent includes a cross reference to the West Bay Environmental Restoration Assessment.
25. 3.75 18.20.864 – New or Expanded Shoreline Stabilization Measures includes an edit removing the phrase “waterward of the Ordinary High Water Mark” [H].
26. 3.77 18.20.868 – Design of Shoreline Stabilization Measures has a new provision added pointing to the Olympia Sea Level Rise Response Plan as a consideration when determining the minimum necessary size of shoreline stabilization structures [B.1].
27. 3.81 18.20.900 – Existing Buildings and Uses within Shorelines is revised to allow for replacement and expansions [A].
28. 3.82 18.20.910 – Alteration of Nonconforming Structures in Shoreline Jurisdiction includes an added provision to allow raising the floor elevation of a legally existing structure in response to sea level rise flooding within height limits. This provision is not extended to nonconforming

- overwater structures. [A.4]. An additional revision allows for the reconstruction within the existing footprint of unintentionally damaged or destroyed nonconforming structures [B.1].
- D. OMC Chapter 18.32 Critical Areas – Revisions are proposed for improved clarity, and for consistency with Ecology’s guidance including minor adjustments to habitat function scores (low is now 3 – 5 points, moderate is now 6-7 points), buffer width, update to the referenced Ecology Wetland Guidance, [18.32.510 A.2, 18.32.535 B. Table 32-1: Wetland Buffer Widths, 18.32.535 G.

Amendment History, Review Process

The City prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. An important element of the public participation plan is the City’s SMP Periodic Review project [website](#)⁴. A consultant, hired by the City developed draft documents. Due to the COVID-19 pandemic, the City held public meetings in a virtual format using Zoom, including a public Open House held December 2, 2020 and Planning Commission meetings addressing this topic, beginning in March 2020 and continuing through February 2021, were nearly all held remotely.

The City used Ecology’s Periodic Review checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines, that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The City consulted with Ecology and solicited comments throughout the review process including opportunities to comment on draft materials in June, August and October November 2020.

The record indicates the City completed a SEPA checklist and issued a Determination of Non-Significance (DNS) on January 22, 2021 for the proposed SMP amendment.

The City and Ecology held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on December 4, 2020 and continued through January 11, 2021. A public hearing before the Planning Commission was held virtually via Zoom on January 11, 2021.

The City provided notice to local parties, including a statement that the hearing was intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). The City’s record indicates notice of the hearing was published in *The Olympian*. Ecology distributed notice of the joint comment period to state interested parties on November 30, 2020, including separate notice and an invitation for consultation to the Chehalis Tribe, Squaxin Island Tribe and the Nisqually Indian Tribe.

The City accepted public comments on the proposed SMP amendments during the 30-day public comment period. Comments were received from eighteen (18) organizations/individuals and included

⁴ <http://olympiawa.gov/smp>

concerns about the health of Puget Sound, Southern Resident Killer whales, Chinook salmon and numerous other species. Specific concerns about sediment contamination, water quality and habitat degradation, use of science, and the need to daylight the numerous small creeks⁵ tributary to Budd Inlet were expressed. A number of comments expressed a desire the City include “restoration potential” as a consideration in the SMP. Other comments focused on the proposed revisions to public access requirements, wetland buffers, Green Cove Creek, nonconforming structures, no net loss, habitat protection and restoration, RV parks in the Marine Recreation Environment, environmental justice, sea level rise, public access, and shoreline setbacks.

The City made a few changes in response to comments including revisions to language allowing soft shoreline stabilization measures above and below the OHWM, revised the proposed setback along West Bay to 50 feet rather than the proposed 30 feet, and has proposed revisions addressing “priority habitat areas”

The proposed SMP amendments were received by Ecology on March 1, 2021 for initial state review. The submittal was supplemented on March 2, 2021 and verified as complete on March 2, 2021. This began Ecology’s review and initial determination.

Summary of Issues Identified by Ecology as Relevant to Its Decision

Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act (SMA) and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines. WAC 173-26-186(11) specifies that Ecology “shall insure that the state’s interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020.”

Based on review of the proposed amendments to the SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, and consideration of supporting materials in the record submitted by the City, the following issues remain relevant to Ecology’s final decision on the proposed amendments to the City’s SMP, with Findings specific to each issue identifying amendments needed for compliance with the SMA and applicable guidelines:

Public Access

The proposal amends the public access provisions in SMP 3.26 18.20.450 and 3.27 18.20.460, adding additional criteria to the list identifying when public access requirements can be waived. One of the waiver conditions relies on the proposed definition for “functional disconnect”. This term, as proposed in the SMP, relates to a determination that an area is functionally isolated from the shoreline and no longer provides shoreline ecological functions. In addition, the presence of intervening development may not preclude public access but may require it occur in a different manner. See a related recommended change below.

Finding: Ecology finds the proposed revisions to the public access requirements relies, in part, on the definition of “functional disconnect”. This is not an appropriate measure for determining whether public access can be waived as this is an ecological and biological determination. Revisions are required for

⁵ Moxlie Creek, Indian Creek, Schneider Creek, Ellis Creek.

internal consistency, and for consistency with WAC 173-26-211(3) and WAC 173-26-221(4)(d). [Req-1 and Rec-2]

Use and Development Standards Tables – Setback Reductions

In SMP 3.42 18.20.620, a provision is added allowing for setback reductions on areas disconnected from the shoreline by an existing road which results in a functional disconnect from the shoreline. The term “functional disconnect” is a new proposed term in the SMP (see discussion below under Definitions). A comment from Washington Department of Fish and Wildlife noted that the presence of existing infrastructure or structures does not automatically equate to the absence of all shoreline ecological functions.

Finding: Ecology finds the proposed revisions are incomplete. The SMP lacks any clear mechanism for ensuring a functional disconnect is verified. Revisions are required for internal consistency with the proposed definition of “functional disconnect”, to ensure determination of the functional disconnection is scientifically sound, and to ensure consistency with the no net loss standard in WAC 173-26-201(2)(c). [Req-3]

Ecology recommended changes

Ecology has identified eight recommended changes to the SMP amendment for consideration by the City. These can be found in Attachment 1, items Rec-1 through Rec-8.

Integration of Critical Area Regulations

1. The SMP incorporates the CAO by reference in two locations - Section 1.6 Regulations Adopted by Reference and Section 3.23 18.20.420 – Critical Areas. The SMP incorporates the CAO by reference in two different locations, requiring both to be amended whenever there is an updated ordinance. Ecology recommends changes to Section 1.6 which would more generally discuss the adoption by reference and leaving the specific citations in Section 3.23. [Attachment 1, Rec-1]
2. Section 3.23 18.20.420 lists exceptions to the incorporation of the CAO into the SMP including the need to utilize the approved federal wetland delineation manual in regulation C.7. This SMP provision is duplicative of language the CAO in OMC 18.32.580 and is unnecessary. [Attachment 1, Rec-3]

Public Access

Ecology recommends adding a provision to the list of conditions under which the public access requirement can be waived. This provision speaks to case when the costs of the public access are disproportionate to the cost of the proposed development. [Attachment 1, Rec-5]

Definitions

The SMP includes a new definition for “functional disconnect”. Ecology recommends improving the definition by more clearly describing “substantially developed surface”. Language providing examples of what is and isn’t a substantially developed surface is suggested. [Attachment 1, Rec-2]

Priority riparian areas

In response to comments received, as well as internal concerns around implementation of the “priority riparian areas” provisions and the SMP, the City proposes revisions in OMC 18.32.405, 18.32.410 and 18.32.435. OMC 18.35.405 applies the term “priority riparian areas” to certain segments along Budd

Inlet and Capitol Lake. Proposed changes remove all listed segments, revising the applicability to non-shoreline lakes, and includes removal of any reference to Type S waters⁶ in OMC 18.32.410 and 18.32.435.

Ecology is concerned the proposed revisions alter the intent and application of the “priority habitat area” provisions and recommends an alternative approach: retaining the language proposed for deletion and clarifying in 18.32.435 that the buffer for Type S waters is addressed in the SMP in 18.20.620 Table 6-3 Shoreline Setback and Vegetation Conservation Areas⁷. Ecology also recommends adding a provision in 18.20.420 C making this same clarification regarding the buffers for “priority riparian areas”. [Attachment 1, Rec-4, Rec-6, Rec-7 and Rec-8].

Findings. Ecology finds that the recommended changes, set forth in Attachment 1, Rec-1 through Rec-8, would be consistent with the policy and standards of RCW 90.58 and the applicable guidelines if implemented.

INITIAL DETERMINATION

The following constitutes Ecology’s written statement of initial concurrence, consistent with WAC 173-26-104(3)(b)(ii):

After review by Ecology of the complete record submitted and all comments received, Ecology has determined that the City’s proposed amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Next Steps

Consider the changes identified by Ecology in Attachment 1. Please let me know if you would like to discuss alternative language or different approaches for resolving these issues.

If these issues are resolved prior to local adoption, we anticipate being able to approve your SMP Periodic Review amendment after formal submittal is provided consistent with WAC 173-26-110.

⁶ Per WAC 222-16-031, a Type S water is a Type 1 water. “Type 1 Water” means all the waters, within their ordinary high-water mark, as inventoried as “shorelines of the state” under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters’ associated wetlands as defined in chapter 90.58 RCW.

⁷ These setbacks were established during the Comprehensive SMP Update informed by the information in the Shoreline Inventory and Characterization.

Changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and are consistent with SMA policy (RCW 90.58.020) and the SMP Guidelines (WAC 173-26, Part III).

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline</u> -additions; strike through -deletions]	ECOLOGY - DISCUSSION/RATIONALE
Rec-1	1.6 Adoption by Reference	<p>1.6 Regulations Adopted by Reference</p> <p>The Critical Areas regulations adopted by Council as of Month Day, 202X (Ordinance XXXX), contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference <u>as described in Section 18.20.420 A</u>; 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.</p>	<p>Recommended change: Remove the specific date and Ordinance number, add a reference to SMP Section 18.20.420 A and delete the language on reasonable use provisions.</p> <p>The reference to the specific ordinance and adoption date is included in OMC 18.20.420A (SMP 3.23). Deleting the specific reference here will reduce the number of changes necessary whenever an amendment is needed to update the referenced ordinance. The reasonable use language is duplicative of language in 18.20.420 C.8. and is only one of a number of critical area provisions which are not applicable in shoreline jurisdiction.</p>
Rec-2	3.3 18.20.120 ¹ Interpretation and Definitions	<p>Functional Disconnect: An existing, legally established public road or other substantially developed surface which effectively eliminates the capacity for upland areas to provide shoreline ecological functions, as defined in WAC 173-26-201(2)(c). <u>As used in this definition, "substantially developed surface" can include public infrastructure such as roads, and private improvements such as commercial structures. A "substantially developed surface" shall not include paved trails, sidewalks, private driveways or accessory buildings that do not require a building permit.</u></p>	<p>Recommended change: Define "substantially developed surface" which is vague. Additional language is suggested to better define "substantially developed surface" to aid in implementation.</p>
Rec-3 and Rec-4	3.23 18.20.420 Critical Areas	<p>C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the <u>S</u>shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:</p> <ol style="list-style-type: none"> 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. Stream and Important Riparian Area buffer reductions beyond twenty-five 	<p>Recommended changes: Edits include a typographical correction, citation corrections and deletion of C.7 addressing wetland delineations.</p> <p>The language in C.7 is duplicative of language in OMC 18.32.580 Wetlands – Wetland Boundary Delineation which has been incorporated by reference.</p>

¹ The regulatory provisions of the SMP contain both a section # (3.3) and the Olympia Municipal Code number (18.20.120).

Changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and are consistent with SMA policy (RCW 90.58.020) and the SMP Guidelines (WAC 173-26, Part III).

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline-additions</u> , strike-through deletions]	ECOLOGY - DISCUSSION/RATIONALE
		<p>percent (25%) within shoreline jurisdiction shall require a shoreline variance.</p> <p>3. 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.</p> <p>4. 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(<u>ML</u>)).</p> <p>5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers <u>34 and 45</u> above shall require a shoreline variance (OMC 18.32.530(E) and (G)).</p> <p>6. Wetland buffer reductions beyond twenty-five percent (25%) within shoreline jurisdiction shall require a shoreline variance.</p> <p>7. 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).</p> <p>8. 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.</p> <p>9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.</p> <p>10. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).</p> <p>11. <u>In shoreline jurisdiction, "priority riparian area" buffers for Type S waters are governed by Section 18.20.620 and Table 6.3 – Setbacks and Incentives which establishes setbacks and Vegetation Conservation Areas based on the Shoreline Environment.</u></p>	<p>Recommended change: A new provision is suggested to clarify implementation of "priority riparian area" buffers on Type S waters. This is a suggested alternative to the City's proposed revisions, in response to public comments, in 18.32.405, 18.32.410, 18.32.435. Related changes are shown below in Items Rec-6 to Rec-8.</p>
<p>Req-1 and Rec-5</p>	<p>3.26 18.20.450 – Public Access</p>	<p>C. 5. The development site is disconnected from the shoreline by an existing, legally established <u>public</u> road or <u>public space such as Percival Landing</u> other substantial developed surface which results in a functional disconnect from the shoreline; or</p>	<p>Required change: Revisions are needed for internal consistency with 3.27 18.20.460 Public Access Design as required by WAC 173-26-211(3), and for consistency with WAC 173-26-221(4)(d).</p>

Changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and are consistent with SMA policy (RCW 90.58.020) and the SMP Guidelines (WAC 173-26, Part III).

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline-additions</u> , strike-through deletions]	ECOLOGY - DISCUSSION/RATIONALE
		<p>6. Safe and convenient public access already exists in the immediate vicinity, and/or adequate public access is already documented at the property. The Administrator will consider the following to determine if adequate public access is provided in the immediate vicinity:</p> <ul style="list-style-type: none"> a. Public access areas occur along the shoreline within 1/8 mile of the development site or within ¼ mile when seating is provided along the route; and b. Safe pedestrian access from the site to the public access areas along or to the shoreline is provided. <p><u>7. The cost of providing the access, easement or an alternative amenity is unreasonably disproportionate to the cost of the proposed development.</u></p>	<p>As proposed in the SMP, the definition of “functional disconnect” relates to the assessment that the upland area separated from the shoreline does not provide shoreline ecological functions. This ecological and biological determination has no bearing on the decision to waive public access requirements on a site. In addition, the presence of intervening development may not preclude public access but may require it occur in a different manner.</p> <p>Recommended change: Additional language is suggested for the City’s consideration.</p>
<p>Req-2</p>	<p>3.27 18.20.460 – Design of Public Access</p>	<p>A. 5. Where physical access to the water’s edge is not feasible, a public viewing area shall be provided. This requirement may be waived by the Administrator where all of the following conditions are present:</p> <ul style="list-style-type: none"> a. The development site is disconnected from the shoreline by an existing, legally established <u>public</u> road or public space such as Percival Landing, which results in a functional disconnect from the shoreline; b. Public access areas occur along the shoreline within 1/8 mile of the development site or within ¼ mile when seating is provided along the route; and c. Safe pedestrian access from the site to the public access areas along or to the shoreline is provided. 	<p>Required change: Revisions are needed for internal consistency with 3.26 18.20.450 Public Access, as required by WAC 173-26-211(3), and for consistency with WAC 173-26-221(4)(d).</p> <p>As proposed in the SMP, the definition of “functional disconnect” relates to the assessment that the upland area separated from the shoreline does not provide shoreline ecological functions. This ecological and biological determination has no bearing on the decision to waive public access requirements on a site. In addition, the presence of intervening development may not preclude public access but may require it occur in a different manner.</p>
<p>Req-3</p>	<p>3.42 18.20.620 - Use and Development Standards Tables</p>	<p>D. Setback reductions shall be allowed as provided in Table 6.3 and subject to the following: ...</p> <p>9. Shoreline setbacks shall not apply to areas that are disconnected from the shoreline by an existing, legally established <u>public</u> road <u>or other substantially developed surface</u> which results in a functional disconnect from the shoreline. <u>The applicant shall provide a biological assessment by a qualified professional that demonstrates the area is functionally isolated. The City shall consider the hydrologic, geologic,</u></p>	<p>Required change: Revisions are made for internal consistency with the proposed definition of “functional disconnect”, to ensure determination of a functional disconnection is scientifically sound, and for consistency with the no net loss standard in WAC 173-26-201(2)(c).</p> <p>Ecology agrees with Washington Department of Fish and Wildlife that the presence of existing infrastructure or structures does not automatically equate to the absence of all shoreline ecological functions. Any claim that a “functional disconnect” exists should be demonstrated through an analysis by a qualified</p>

Changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and are consistent with SMA policy (RCW 90.58.020) and the SMP Guidelines (WAC 173-26, Part III).

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline-additions</u> , strike-through deletions]	ECOLOGY - DISCUSSION/RATIONALE
		<p><u>and/or biological habitat connection potential and the extent and permanence of the physical separation.</u></p>	<p>professional.</p>
<p>Rec-6</p>	<p>18.32.405 Streams and Priority Riparian Areas - Applicability</p>	<p>B. "Priority Riparian Areas" means those lake shorelines not subject to the Shoreline Master Program, as measured from the ordinary high water mark, and encompassing its buffer.</p> <p>B. "Priority Riparian Areas" means those marine and lake shorelines, as measured from the ordinary high water mark, in the following locations:</p> <ol style="list-style-type: none"> 1. The eastern shore of Budd Inlet from the southern property line of Priest Point Park northward to the city limits; 2. The western shore of Budd Inlet (in the Port Lagoon) from 4th Avenue NW northward to the extension of Jackson Avenue NW, but not including the BNSF railroad causeway and trestle or their western or eastern shores; West Bay Drive NW; Olympic Way NW; and parcels west of the rights-of-ways of West Bay Drive NW and Olympic Way NW; 3. The western shore of Budd Inlet (north of West Bay Drive) from the extension of 24th Avenue NW northward to the city limits, being approximately six hundred and fifty (650) feet from the end of the fill to the city limits; 4. The eastern shore of Capitol Lake (in the Middle Basin) from the extension of 13th Avenue SE (Olmsted Brothers Axis) southward to the right of way of Interstate 5; 5. The eastern shore of Capitol Lake (in the South Basin) from the right of way of Interstate 5 southward to the city limits; and 6. The western shore of Capitol Lake (in Percival Cove) from the intersection of Lakeridge Drive SW and Deschutes Parkway SW westward to the mouth of Percival Creek (a point due north of the terminus of Evergreen Park Court SW). 	<p>Recommended change: Delete the proposed language and retain the existing language in 18.32.405.</p> <p>The City's proposed revision appears to entirely alter the definition of "priority riparian areas" from certain marine and lake shorelines, all of which are Type S waters, to non-shoreline lakes which necessarily means lakes less than 20 acres in size.</p>
<p>Rec-7</p>	<p>18.32.410 Streams and Priority Riparian Areas – Typing System</p>	<p>Streams are grouped into categories according to the Washington Department of Natural Resources Water Typing System. The criteria, definitions and methods for determining the water type of a stream are found in WAC 222-16-031.</p> <p>A. "Type S waters streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type S Water. <u>Type S waters streams</u> contain fish habitat.</p>	<p>Recommended change: Retain the existing language in 18.32.410 A. The City could also consider some minor edits (shown) replacing the term "streams" with "water" or "waters" as used in WAC 222-16-031.</p>

Changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and are consistent with SMA policy (RCW 90.58.020) and the SMP Guidelines (WAC 173-26, Part III).

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline-additions</u> , strike-through deletions]	ECOLOGY - DISCUSSION/RATIONALE												
Rec-8	18.32.435 Streams and Priority Riparian Areas - Buffers	<p>C. Stream buffers shall be based on the water type classification as established by the Department of Natural Resources Stream Typing Classification System and required by OMC 18.32.410. The table below includes detail differentiating stream types based on fish habitat presence, stream widths, and mass wasting potential:</p> <table border="1" data-bbox="499 435 1585 1130"> <thead> <tr> <th data-bbox="499 435 1042 505"><u>Stream-Water</u> Type and Description</th> <th data-bbox="1042 435 1585 505">Buffer</th> </tr> </thead> <tbody> <tr> <td data-bbox="499 505 1042 711">Type S waters – Shorelines of the State</td> <td data-bbox="1042 505 1585 711">250 Refer to SMP 18.20.620, Table 6-3 for the Shoreline Setback and Vegetation Conservation Areas</td> </tr> <tr> <td data-bbox="499 711 1042 816">Type F streams greater than 5 feet wide (bankfull width) that provide habitat for fish</td> <td data-bbox="1042 711 1585 816">250</td> </tr> <tr> <td data-bbox="499 816 1042 922">Type F streams less than 5 feet wide (bankfull width) that provide habitat for fish</td> <td data-bbox="1042 816 1585 922">200</td> </tr> <tr> <td data-bbox="499 922 1042 1027">Type Np and Ns streams (no fish habitat) with high mass wasting potential</td> <td data-bbox="1042 922 1585 1027">225</td> </tr> <tr> <td data-bbox="499 1027 1042 1130">Type Np and Ns streams (no fish habitat) without high mass wasting potential</td> <td data-bbox="1042 1027 1585 1130">150</td> </tr> </tbody> </table>	<u>Stream-Water</u> Type and Description	Buffer	Type S waters – Shorelines of the State	250 Refer to SMP 18.20.620, Table 6-3 for the Shoreline Setback and Vegetation Conservation Areas	Type F streams greater than 5 feet wide (bankfull width) that provide habitat for fish	250	Type F streams less than 5 feet wide (bankfull width) that provide habitat for fish	200	Type Np and Ns streams (no fish habitat) with high mass wasting potential	225	Type Np and Ns streams (no fish habitat) without high mass wasting potential	150	<p>Recommended change: Retain the Type S water type in the table and add language referencing the SMP provision which establishes shoreline setbacks and vegetation conservation areas. The City could also consider making changes to references throughout OMC 18.32.400-435, replacing “streams” with “waters”</p>
<u>Stream-Water</u> Type and Description	Buffer														
Type S waters – Shorelines of the State	250 Refer to SMP 18.20.620, Table 6-3 for the Shoreline Setback and Vegetation Conservation Areas														
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Type Np and Ns streams (no fish habitat) with high mass wasting potential	225														
Type Np and Ns streams (no fish habitat) without high mass wasting potential	150														

From: [Van Zwalenburg, Kim \(ECY\)](#)
To: [Joyce Phillips](#)
Cc: [Nicole Floyd](#)
Subject: RE: CAO 18.32 ECY Initial Determination 03292021
Date: Tuesday, March 30, 2021 10:10:21 AM

External Email Alert!

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Correction:

Finding. The changes set forth would remain consistent with the policy and standards of RCW ~~90.57~~ **90.58** and the applicable guidelines.

From: Joyce Phillips <jphillip@ci.olympia.wa.us>
Sent: Tuesday, March 30, 2021 10:05 AM
To: Van Zwalenburg, Kim (ECY) <kvan461@ECY.WA.GOV>
Cc: Nicole Floyd <nfloyd@ci.olympia.wa.us>
Subject: RE: CAO 18.32 ECY Initial Determination 03292021

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Thank you, Kim. This is very helpful.
Joyce

From: Van Zwalenburg, Kim (ECY) <kvan461@ECY.WA.GOV>
Sent: Tuesday, March 30, 2021 8:37 AM
To: Joyce Phillips <jphillip@ci.olympia.wa.us>
Cc: Nicole Floyd <nfloyd@ci.olympia.wa.us>
Subject: RE: CAO 18.32 ECY Initial Determination 03292021

External Email Alert!

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Good morning Joyce:

Thank you for the opportunity to discuss the proposed revisions to the CAO related to Priority Riparian Areas with you and Nicole. The suggested approach shown in the document provided on 3/29 accurately reflects the outcome of our discussion and addresses the concerns raised in the Initial Determination.

Please note: The Initial Determination included a related revision to 3.23 18.20.420 regarding "priority riparian area" buffers [Rec-4]:

[11. In shoreline jurisdiction, "priority riparian area" buffers for Type S waters are governed by Section 18.20.620 and Table 6.3 – Setbacks and Incentives which establishes](#)

[setbacks and Vegetation Conservation Areas based on the Shoreline Environment.](#)

This should be revised to reflect the proposed changes:

Revised recommended change Rec-4: [Priority riparian area buffers are set forth in OMC 18.32.435 Streams and Priority Riparian Areas – Buffers.](#)

My 'Finding' remains the same: The changes set forth would remain consistent with the policy and standards of RCW 90.57 and the applicable guidelines.

Don't hesitate to contact me should there be any remaining questions.

Kim

Kim Van Zwalenburg, Senior Shoreline Planner
Department of Ecology - Southwest Regional Office
PO Box 47775 Olympia, WA. 98504-7775
(360) 407-6520 voicemail forwards to email; Cell: (360) 742-2074

WA State Department of Ecology Southwest Regional Office is not accepting walk-in service from the public until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available on our [website](#). We remain committed to service, so don't hesitate to reach out to us.

From: Joyce Phillips <jphillip@ci.olympia.wa.us>
Sent: Monday, March 29, 2021 4:40 PM
To: Van Zwalenburg, Kim (ECY) <kvan461@ECY.WA.GOV>
Cc: Nicole Floyd <nfloyd@ci.olympia.wa.us>
Subject: CAO 18.32 ECY Initial Determination 03292021

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi, Kim.

Thank you for meeting with Nicole and me to discuss the relationship between the SMP and CAO, specifically as it relates to the Priority Riparian Areas identified in CAO. Attached please find draft amendments to the CAO that I believe will provide clarity for the implementation of both the SMP and CAO. Please let me know if you have any concerns related to the Stream Type and Description Table in 18.32.435. If not, it is what I would like to use moving forward.

Thank you!

Joyce

Joyce Phillips, AICP, Principal Planner
City of Olympia | Community Planning and Development
601 4th Avenue East | PO Box 1967, Olympia WA 98507-1967
360.570.3722 | olympiawa.gov

Note: Emails are public records, and are potentially eligible for release.

Public Comment Summary: City of Olympia SMP Periodic Review
City & Ecology Joint Public Comment Period, December 4, 2020 – January 11, 2021

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
1a	General/SMP	Harry Branch 8/19/2020	This should include the scientific discipline of oceanography, the study of interrelationships between physical, chemical and biological parameters.	Comment noted. The primary purpose of the SMP Periodic Review is to make any necessary revisions to ensure the SMP is current with changes to state laws and adopted updates to local plans. Conducting studies is beyond the scope of the update.
1b	General/SMP	H. Branch 8/19/2020	This should include classical methodology, observation, hypothesis, test, conclusion.	Comment noted. Please see the response to Comment 1a.
1c	General/SMP	H. Branch 8/19/2020	The report should include tributaries that drain directly to Budd Inlet including Ellis, Schneider and Moxlie Creeks. Of particular significance is the combined effect of these estuaries.	Waterbodies that meet the state definition for shorelines under the State’s Shoreline Management Act have been included in the SMP. Other waterbodies are governed by the City’s Critical Areas Ordinance, where applicable. In Olympia, shorelines under the SMP include: Budd Inlet, Capitol Lake, Chambers Lake, Grass Lake (also known as Lake Louise), 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.
1d	General/SMP	H. Branch 8/19/2020	East Bay Waterfront Park is briefly given favorable mention. This Park is an invitation for children to play in dioxin as high as 1100 ppt, which is a problem. A Sediment Characterization of Budd Inlet was prepared. The next steps were to be identification of sources and source control, which never happened.	The referenced study was conducted by the Washington State Department of Ecology. The City of Olympia has worked to improve water quality through updating its Storm and Surface Water Plan, adopting Low Impact Development Stormwater standards, and developing habitat restoration plans and projects.
2a	2.5 - Aquatic Management Policies	WDFW 12/29/2020	Armoring above OHWM can also impact functions such as sediment recruitment, shade, and insect prey fallout. Restoration or replacement using soft approaches above OHWM can be valuable. Suggest removing the	The City agrees with this comment. The previously proposed phrase “waterward of the OHWM” has been removed from new policy 2.5 H. Additionally, the existing phrase “water-ward of the Ordinary High

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
			"waterward of the OHWM" to encompass wider range of projects and locations.	<p>Water Mark” has been removed from SMP section 18.20.864 - New or Expanded Shoreline Stabilization Measures, regulation H, as shown below.</p> <p><i>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></p>
2b	18.20.120 - Interpretation & Definitions – Functional Disconnect	WDFW 12/29/2020	While some shoreline ecological functions may be reduced or eliminated by a shoreline-adjacent road or other infrastructure, many shoreline functions may remain including shade, habitat, and soil stabilization.	Comment noted.
2c	18.20.620 Use and Development Standards Tables	WDFW 12/29/2020	It's important that remaining shoreline functions aren't lost because of existing infrastructure exempting the site from shoreline setbacks. Suggest adding language to define a Functional Disconnect as a situation where all shoreline ecological functions have been lost. Remaining functions should be protected with setbacks. Allowing shoreline setbacks to not apply in areas which may have lost some but not all shoreline functions may result in loss of remaining functions and may impact the viability of restoration projects by increasing the scale and degree of restoration needed.	Comment noted. The City has included a definition for the term Functional Disconnect. The amended Definitions section reads: “Functional Disconnect: An existing, legally established public road or other substantially developed surface which effectively eliminates the capacity for upland areas to provide shoreline ecological functions, as defined in WAC 173-26-201(2)(c).”
3a	General/SMP	H. Branch 01/04/2021	Consider the plight of the Southern Resident Killer Whale and their principal prey Chinook salmon. We're learning about the plight of Walleye Pollock, Pacific Herring, Pacific Cod, 15 species of rockfish, chum and sockeye salmon, steelhead, various mollusks and birds, insects	Comment noted. The City agrees that protection of species and their habitat is of great importance. The SMP establishes the minimum requirements for development or redevelopment adjacent to certain shorelines. It does not preclude nor detract from

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
			and invertebrates. Much of the loss has occurred over the past two decades, under current rules.	other local, state, or federal efforts to protect these species or clean up the Puget Sound.
3b	General/SMP	H. Branch 01/04/2021	Allowing a water body to remain physically damaged results in degraded water quality which impacts species composition which degrades water quality which impacts species composition and so on. There is an ongoing net loss caused by existing modifications. A stream in a pipe has no phytoplankton. This is why nitrates travel 18 times farther in a buried pipe than one that sees daylight. And why buried streams are low in dissolved oxygen.	Comment noted.
3c	General/SMP	H. Branch 01/04/2021	The most critical part of any local watershed is its estuary and persistent circulation patterns. In a pipe circulation is restricted. With sunlight we have a mix of phytoplankton and zooplankton and birth of the food web. In the SMP, potential is never a consideration. Restoration potential should be part of every equation, based on that which existed historically.	Comment noted. Restoration considerations are part of project review but are not a requirement under the Shoreline Management Act.
3d	Section 3.1, 18.20.100(B) - Applicability	H. Branch 01/04/2021	The high water mark is the point from which setbacks are measured. The high water mark for the two major streams draining into Budd Inlet lies inside long culverts. The tide flows up a long pipe in both Moxlie and Schneider Creeks. In fact, there are 160 miles of stream-in-a-pipe in Olympia. In regulatory terms they don't exist. Birds, fish and marine mammals have no standing to appeal.	Comment noted. All creeks that meet the state definitions for inclusion in the SMP are included. OMC 18.20.300(B) notes <i>"The City has chosen not to regulate 'optional' shorelands as described in RCW 90.58.030 through this Shoreline Program."</i> Any decision to retain or "daylight" any existing waterbodies that are in pipes is beyond the scope of the periodic review and is not under consideration at this time.
3e	18.32.535(G)	H. Branch 01/04/2021	The most substantive issue brought up by the State in the SMP Periodic Review is the statement "The City's wetland buffers are not current with the State's most recent guidance." The City's response is that recommendations would result in amendments to chapter 18.32 of the Code (Critical Areas) rather than the SMP itself. But revisions to Olympia code 18.32 make no substantive changes to	The proposed change to the Critical Areas Ordinance is to update which version of Ecology's wetland guidance is used. This will ensure the City's CAO is based on the state's Best Available Science for wetland ratings and buffer widths. The amendment results in a reduction of wetland buffer width for certain wetlands with a low habitat score from 100

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
			setbacks. It continues to recommend protecting critical areas, aiming at no net loss and providing mitigation for unavoidable impacts through minimizing, rectifying, reducing and compensating for loss.	feet to 80 feet. While the wetland buffer width will be reduced in those circumstances, Ecology's evaluation ensures that the level of protection needed for that type of wetland will be maintained.
3f	General/SMP	H. Branch 01/04/2021	Priority Riparian Areas are listed as the eastern shore of Budd Inlet, including and north from Priest Point Park, long stretches of western shore of Budd Inlet including West Bay Waterfront Park and the Port Lagoon and much of the shore of Capitol Lake. The priority areas are essentially parks. The prevailing assumption seems to be that humans must destroy any place we reside.	How the local SMPs and Critical Areas Ordinances (CAOs) work together has been further refined by the state. Within shoreline jurisdiction, shoreline setbacks and Vegetation Conservation Areas (VCAs, which are similar to buffers in the CAO) are in the SMP. For other types of environmentally sensitive areas such as steep slopes or wetlands, the provisions of the CAO apply within the shoreline jurisdiction. As such, any reference to Type S waters (for streams) or Priority Riparian Areas that pertain to marine waters should be removed from the CAO to reduce confusion.
3g	General/SMP	H. Branch 01/04/2021	The most glaring unspoken conclusion is that we should simply give up on East Bay, the half-mile long embayment south of Priest Point Park. It's been severely modified and has the worst benthic dioxin contamination and the poorest water quality in Budd Inlet. This way of thinking represents a clear violation of the Clean Water Act, the Endangered Species Act and numerous other State and Federal laws and regulations.	Comment noted. The City does not agree that the City or other governmental agencies are giving up on East Bay or are in violation of the Clean Water Act, the Endangered Species Act, or other state and federal laws.
3h	General/SMP	H. Branch 01/04/2021	How about some real changes: Restoration potential should be part of every equation. The potential inherent in a location should never be ignored.	Restoration considerations are part of project review but are not a requirement under the Shoreline Management Act. The most common forms of required restoration are in the form of revegetation in Vegetation Conservation Areas adjacent to shorelines. Larger projects may also include restoration both above and below the ordinary high water mark, such as by providing the type of restoration improvements envisioned within the

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
				SMP's restoration plan (appendix A) or the West Bay Park Recreation, Trail, and Restoration Report.
3i	General/SMP	H. Branch 01/04/2021	Under City Code once a stream goes into a pipe in Olympia it no longer exists. Likewise if it's ever day-lighted, rules don't apply. This makes sense where there's currently a structure but not as justification for new construction. We should change the rule in such instances to recognize the existence of streams.	Comment noted. At this time the City does not intend to address waterbodies in the SMP that do not meet the definition of shorelines under the Shoreline Management Act. The critical areas ordinance will be fully reviewed during the next comprehensive update scheduled per the Growth Management Act.
3j	General/SMP	H. Branch 01/04/2021	The best available science should be employed in every study including a clearly stated observation, hypothesis, test and conclusion otherwise the effort can be incomplete, misdirected and conclusions can be buried in data. Sites should be sampled for any contaminants suspected of possibly being at the site, according to established protocols.	Comment noted. Please see the response to Comment 1a.
3k	General/SMP	H. Branch 01/04/2021	We need to take a holistic, ecosystem based approach to our critical areas. The baseline should be that which existed historically. Every effort should be made to determine how physical parameters like structures impact chemical parameters such as dissolved oxygen and biological parameters such as phytoplankton.	Comment noted. Please see the response to Comment 1a.
3l	General/SMP	H. Branch 01/04/2021	We should provide SRKW orcas with legal standing, consistent with the global Rights of Nature movement.	Comment noted. Please see the response to Comment 1a.
4	-	Bob Jacobs	Concur with Harry Branch Comments dated January 4, 2021	Concurrence noted.
5	-	Walt Jorgensen	Concur with Harry Branch Comments dated January 4, 2021	Concurrence noted.
6	-	Glen Anderson	Concur with Harry Branch Comments dated January 4, 2021	Concurrence noted.
7	-	Zena Hartung	Concur with Harry Branch Comments dated January 4, 2021	Concurrence noted.

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
8a	SMP 3.42, 18.20.620 - Table 6.3; CAO 18.32.535	Lisa Riner	The review made the statement "The City's wetland buffers are not current with the State's most recent guidance". This means that the City of Olympia needs to have updated wetland buffer language in their review. We must update to meet the State language. We cannot allow our shorelines to deteriorate further. The City's response is that recommendations would result in amendments to chapter 18:32 of the Code (Critical Areas) rather than the SMP itself. But revisions to Olympia code 18:32 make no substantive changes to setbacks. We need setbacks! Currently setbacks next to Budd Inlet is 30 feet.	Please see the response to Comment 3e.
8b	SMP 3.42, 18.20.620 - Table 6.3; CAO 18.32.535	Lisa Riner	The City Response for a legitimate setback, continues to "recommend protecting critical areas, aiming at no net loss and providing mitigation for unavoidable impacts through minimizing, rectifying, reducing and compensating for loss". This statement is problematic! The loss of habitat for the eel grass, loss of habitat for the salmon, the food stock of the Endangered Orcas, are in the balance at Budd Inlet, Puget Sound.	Comment noted. The proposed change to wetland buffers is based on guidance from the Washington State Department of Ecology and its review of Best Available Science. Wetland buffers will apply to wetlands in the City, whether or not the wetland is within or outside of the shoreline jurisdiction.
8c		Lisa Riner	How about some real changes: In the SMP, "Restoration potential" should be part of every equation. The potential inherent in a location should never be ignored. For example, we cannot have the loss of eel grass. Many aquatic animals need eel grass to live. Putting rocks into the water, along Budd Inlet is not sufficient for rectifying loss. We need WA State language, the recent guidance, that deals with wetland and buffers.	Comment noted. Please see the response to Comment 3h. Restoration considerations are part of project review but are not a requirement under the Shoreline Management Act. Note, there are currently no proposed changes to the Restoration Plan (appendix A of the SMP). In the related amendments to the Critical Areas Ordinance, the City is updating the reference to the WA State language, the recent guidance, that deals with wetlands and appropriate buffer widths (See OMC 18.32.535).
8d		Lisa Riner	Under City Code the "Green Cove Creek" work done by the City in the 1980's was replaced by the "Low Impact Standards". This work deals with Critical areas, and wetlands, wetland buffers. We need to keep the original	Comment noted. Green Cove Creek is not regulated under the SMP. Protections for Green Cove Creek are within the City's Critical Areas Ordinance, based on its stream type. The City's Low Impact Development

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
			language of that Green Cove Creek Study. Substituting “Low Impact Standards” language, is unacceptable. We need to have Critical areas safe-guarded, the “Low Impact Standards” put into effect by the City. The SMP deals with Critical Areas. We need the full weight of the City’s work from the 1980’s to protect Budd Inlet. We need Wa State language in the SMP.	standards pertain to stormwater and were adopted as good practice and to implement the City’s Municipal Stormwater Permit. These proposed amendments to the SMP do not alter the stream type for Green Cove Creek nor reduce environmental projections for the Green Cove Basin.
8e		Lisa Riner	The best available science should be employed in every study including a clearly stated observation, hypothesis, test and conclusion otherwise the effort can be incomplete, misdirected and conclusion can be buried in the data. In the SMP, it says, that development sites should be sampled for any contaminants suspected of possibly being at the site, according to established protocols. Without sampling, we have little proof of what is currently at the site. We have old studies, but they are insufficient. We need any developer to conduct a site study on past contamination. Public health and safety demand this for development on past polluted sites. This should be mentioned in the SMP.	Comment noted. Please see the response to Comment 1a. Additionally, the City believes the existing policy and regulatory language is adequate to address issues of soil contamination.
9	-	Kim Dobson	Concur with Harry Branch Comments dated Jan. 4, 2021	Concurrence noted.
10a	-	Debra Jaqua	Concur with Harry Branch Comments dated Jan. 4, 2021	Concurrence noted.
10b	SMP	Debra Jaqua	We cannot continue to kick the can down the road because that will burden our children. Decisions continue to be made that appear to be in the best interest of developers who are more concerned with profits than citizens who depend on a healthy shoreline, which we all need. Olympia can and must do better.	Comment noted. Please see the response to Comment 1a.
11	-	Esther Kronenberg	Concur with Harry Branch Comments dated January 4, 2021	Concurrence noted.
12	-	JJ Lindsey	Concur with Harry Branch Comments dated January 4, 2021	Concurrence noted.

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
13a	2.15 – Public Access Policies; 18.20.450 – Public Access; 18.20.460 – Design of Public Access	Bob Jacobs 01/09/2021	My biggest concern is public access. Shoreline access is a high priority public value. Proposed amendments on pages 16, 50, and 51 attempt to define situations where public access requirements could be waived, which would be unfortunate. Perhaps waterfront developments which have no on-site waterfront access possibilities could contribute to a fund to establish or improve public access elsewhere. It would be beneficial to have a better definition of adequate visual access, which is required where physical access is not possible. Visual access should be defined as providing clear views to the water.	Comment noted. It is common throughout other shoreline master programs to not require public access if adequate public access already exists in the immediate vicinity. Public access will be required unless a waiver is issued by the City consistent with 18.20.450.C. To provide more clarity around what constitutes “immediate vicinity” for public access, additional revisions are proposed to 18.20.450.C.6.
13b	18.20.910 – Alteration of Nonconforming Structures in Shoreline Jurisdiction	B. Jacobs 01/09/2021	Proposed amendments deal with the situation where buildings are or become nonconforming. They replace the word "restored" with "reconstructed". It seems questionable whether nonconforming buildings should be allowed to be replaced because this perpetuates a non-conformity, which by definition is not desirable. Elsewhere in city codes this is not allowed.	The intention of the proposed revision is to use a word other than restored, given that restoration in other parts of the SMP refer to habitat restoration. In this section, staff interprets the language to allow for legally established uses that no longer conform to the current standards to be repaired or replaced in the same location. OMC Chapter 18.37 also addresses nonconforming buildings and uses, including those which are located in critical areas. Changing this word is not critical and will not change the way this language is interpreted or implemented, it is intended to provide greater clarity of the intent.
13c	18.20.300 – Shoreline Jurisdiction	B. Jacobs 01/09/2021	New language is confusing. The first two sentences appear to contradict each other as regards structures.	The proposed language is meant to clarify how development is addressed when the shoreline jurisdiction applies to a portion, but not all, of the property.
14a	General/SMP	H. Wheatley	Olympia has many places where the most functionally important shoreline ecosystems (freshwater and saltwater) are severely compromised. Continuing effects of poor management of the shoreline are leading causes of degradation.	The primary purpose of the SMP is to identify how new development and redevelopment will be addressed. In most cases it does not address existing development. It strives to ensure a balance between environmental protection, public access, and giving priority to uses that require a shoreline location with

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
				private property rights and development opportunities. On its own, the SMP will not fix any issues of existing degradation.
14b	2.11 Urban Intensity Environment	H. Wheatley	We need policies that substantially enhance shoreline ecological functions in “urban intensity” zones where much ecological harm to natural shorelines occurs.	Comment noted. The SMP establishes the rules that will apply to future development and redevelopment, in addition to those of other city codes and standards, such as zoning, building, and engineering standards, and requires that, at a minimum, baseline ecological functions are maintained.
14c	2.11 Urban Intensity Environment	H. Wheatley	The shoreline is critical to the resilience of maritime life. For Puget Sound, fixing the urban zone is key to rebuilding resilience.	Comment noted.
14d	General/SMP	H. Wheatley	South Puget Sound shorelines are mapped as priority habitats.	Yes, many areas of the South Puget Sound within the City of Olympia and the urban growth area are mapped as priority habitats.
14e	2.2 Shoreline Ecological Protection	H. Wheatley	Puget Sound is in grave trouble. The “no net loss” approach is a failure. Habitat degradation continues to outpace restoration.	Comment noted.
14f	General/SMP	H. Wheatley	Olympia’s SMP should provide political fortitude at the local level to define clear, consistent goals. It should set meaningful limits based on best available science, not based on past practices and political expedience.	Comment noted.
14g	General/SMA	H. Wheatley	Regional priorities for Puget Sound must be habitat protection and restoration, water quality protection, and salmon recovery. The first priority for revisions should be to make it more protective of these priorities based on what have learned about what works, and what does not. It should be based on principles of adaptive management, strive toward goals set on science, because we are dedicated to social and environmental justice, and because we want to make our waters whole again for all our communities, including finned and winged.	Comment noted. The City’s SMP includes policies and regulations aimed at ensuring no net loss of shoreline ecological functions and a Restoration Plan to help improve ecological functions over time.

Number	Comment Topic and Section Number (Citation)	Commenter	Paraphrased Comment (full comments included in Attachment A)	Local Government Response and Rationale
14h	General/SMP	H. Wheatley	One approach to improving the effectiveness of the SMA, so that degraded shoreline is not one of the factors contributing to poor water quality, is to revise the SMP according to the criteria and requirements of the SMA itself.	Comment noted. The City’s SMP was shown to meet all criteria of the Act during the last comprehensive update. This periodic review ensures consistency with all recent legislative actions since the last comprehensive update.
14i	2.1 – Shoreline Master Program Goals and Policies	H. Wheatley	The Draft SMA helpfully provides the language of Section 2.1(A) of the Shoreline Management Act. The Act provides an “order of preference” prioritized as follows: 1. Recognize and protect the statewide interest over local interest. 2. Preserve the natural character of the shoreline. 3. Long term over short term benefit. 4. Protect resources and ecology. 5. Increase public access to publicly owned areas. 6. Increase recreational opportunities for the public. 7. Anything else defined by the Act as “appropriate or necessary.”	Agreed. The City is proposing to add considerations of resilience of shoreline ecosystems, functions and developments in response to sea level rise as well.
14j	Section 2.1 – Shoreline Master Program Goals and Policies	H. Wheatley	Following this “order of preference” could improve the health of Puget Sound. Olympia does not recognize these priorities holistically. Nor are the current proposed revisions intended to correct the SMA’s course so it moves toward prioritization of natural shoreline. SMA’s description of the City’s role in implementing the Act does not even identify goals #1 through #3 listed above, as elements of the SMA’s “purpose and intent.” The emphasis, instead, is on looking inward to city priorities and doing just enough in the current regulatory environment. This trends toward piecemeal regulation when the whole point is to avoid piecemealing the shoreline to functional death.	Comment noted. The City believes the SMP balances the Shoreline Management Act and Growth Management Act requirements for how future development and redevelopment will occur, including the rules and regulations that are in place for shoreline and environmental protection in urban areas.
14k	General/SMP	H. Wheatley	The SMP muddles city interest with the statewide public interest, and largely fails to place the SMP in the urgent context of the 21st century. To build an SMP that works,	The City believes the SMP does address both statewide and local interests, as intended. The City’s SMP is one part of a larger context of efforts aimed at

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			revisions should contribute to the wellbeing of Puget Sound in the face of population growth, pollution, urbanization of the nearshore environment, species decline, and all of the challenges of climate change that affect our waters and shorelines.	improving Puget Sound. Many other efforts by other entities, including state and federal agencies, also apply.
14l	Section 2.9 – Marine Recreation Environment Management Policies; 18.20.120 Definitions	H. Wheatley	Proposed revisions to accommodate the Port’s interest in building an RV park provides an example of the potential hazards of piecemealing. The state has set high and specific standards for the kinds of recreational use that can be permitted on a shoreline. The City has already indicated that it is aware that the state may reject the proposed revisions to build an RV park, on those very grounds. Can the Port show that it is meeting a “demonstrated significant local, state, or national need” for the new proposed use? Is this a use that should be permitted because it cannot be met elsewhere, per Section IV of WAC 127-26-360 (Ocean Management)? Does a tourist RV park, closing off the area to local public use, meet or at least not detract from priorities #5 and #6 listed above? Conversely, could revising the acting definition of shoreline recreational use in order to allow an RV park, have potentially adverse impacts if it is subsequently applied to other shoreline areas in the city once it becomes part of the SMA?	If any kind of recreational camping or lodging is ever proposed by the Port of Olympia, or any other property owner, it must be reviewed and approved for compliance with all zoning and development standards that apply. This would include review under the State Environmental Policy Act (SEPA), critical areas ordinance, and SMP. The intent of the proposed language is to clarify that short term camping is a form of recreation that could be allowed in the Marine Recreation shoreline environment.
14m	General/SMP	H. Wheatley	If there is compelling reason to change the SMP in a way that allows a particular project, it should be framed with general principles. Any particular project, such as an RV Park for the Port or a large scale real estate development on the West Side, should be forced to stand on its own merits and either meet the optimal regulatory criteria, or prove itself to be sufficiently beneficial to earn a variance.	Any proposed development in the shoreline jurisdiction will be reviewed for conformance with all applicable rules and regulations. If the requirements cannot be adequately satisfied the proposal will not be approved.
14n	18.32.535	H. Wheatley	Shoreline contribution to ecological health must be the top priority of the 2020s. There is documentation of both	The SMP Periodic Review does not include the reassessment of the City’s ecological baseline that

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			the economic costs of loss of ecological function, and economic advantages provided by the ecological services of a healthy shoreline. It is not clear that the proposed buffer changes would serve to demonstrably and substantially improve how the SMP meets the priorities of the SMA to protect natural shoreline, or how they would work to lift Puget Sound out of its current crisis rather than drive it deeper. Do the changes increase protection, or reduce it? Is it truly sufficient to meet “no net loss” standards?	was established in 2015 as part of the development of the Shoreline Master Program. The ecological baseline is the threshold from which “no net loss” is measured. While ecological improvements can be made that exceed that level, it is the established minimum threshold and is not proposed to be revised at this time.
14o	General/SMP	H. Wheatley	According to Puget Sound Partnership, habitat degradation is the greatest threat, and restoration is the most important way to realize the “full potential of Olympia’s shoreline”.	Many of the proposed amendments are to encourage soft armoring (above and below the ordinary high water mark [e.g., see policy 2.5.H.]) and to encourage enhancement over the existing condition (e.g., see section 8.20.846).
14p	General/SMP	H. Wheatley	Many proposed revisions appear to be based on an insular, city-centered approach to SMA revision. It would be preferable to propose revisions that encourage making the most of the data and science-based guidance available to the city from a wide range of state agencies. In particular, the Priority Habitat approach of the WDFW should be reflected. It should provide a starting point for the revision process, as WDFW has called for the utilization of PHS as an adaptive management tool.	The City uses Best Available Science for the protection of critical areas both within and outside of the shoreline jurisdiction.
14q	General/SMP	H. Wheatley	A Priority Habitat approach would provide a robust antidote to the greatest immediate failure of the SMA: its approach to Critical Areas. The SMA should not simply adopt the CAO by reference, even where the city code addresses priority species and habitats for streams and shorelines. Priorities of the SMA should prevail.	Comment noted. The City strives to protect the environment, including shorelines, by implementing state laws through development regulations for shorelines (in accordance with the Shoreline Management Act), critical areas ordinance (in accordance with the Growth Management Act), and in state rules and from court cases.
14r	SMA & GMA	H. Wheatley	The SMP should have Critical Area language based on shoreline ecology and guided by the needs of priority	It has been clarified through the state that for shoreline areas, the SMP must govern the regulation of critical areas (such as wetlands and steep slopes) in the shoreline

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			<p>species, especially salmonids. It should not be subordinate to the Growth Management Act. The legislature has made this very clear. The legislature intends that critical areas within the SMA jurisdiction shall be governed by the SMA and that critical areas outside the SMA jurisdiction shall be governed by the GMA. The legislature further intends that the quality of information currently required by the SMA to be applied to the protection of critical areas within shorelines of the state shall not be limited or changed by the provisions of the GMA. (RCW 90.58.030)</p>	<p>jurisdiction. This is why, for regulatory consistency both within and outside of shoreline jurisdiction, the CAO is adopted by reference in the SMP and why, as part of the SMP Periodic Review process, the City is amending the CAO to reference the most recent state guidance on wetlands and wetland buffers. It should be clarified that shoreline setbacks and the Vegetation Conservation Area (VCA) serve as “buffers” for waterbodies meeting the definition of shorelines under the SMA and that critical areas such as wetlands and steep slopes that occur within the shoreline jurisdiction are regulated by the CAO through the SMP. Staff believes there is the potential for confusion because the CAO includes reference to Type S waters, which are shorelines of the state. As such, additional revisions are proposed to remove reference to Type S or marine waters from the CAO. The CAO would still be incorporated by reference to apply to critical areas within the shoreline jurisdiction. Type S waters are governed by the SMP.</p>
14s	General/SMP	H. Wheatley	<p>Protection of productive habitats for salmonids, feeder fish and zooplankton should be at the top of permitting concerns. So too should protection of shoreline vegetation complexes, including remaining forests and wetlands, that support species (bats, wood ducks, herons, ospreys, eagles). Science- and species-based approaches to identifying priority and critical habitat areas would immediately transform the current stream listings in Table 19.200.107(A) (“Streams Subject to the SMP”). The current list does not identify major streams (and their estuary/outflows) such as Indian/Moxlie and Percival Creeks. The SMA should highlight other kinds of priority shoreline habitats already identified and mapped by the State, including small shoreline streams of importance to chum, or estuary shorelines of significance to salmonids</p>	<p>The City believes the goals, policies, and regulations in the SMP do provide for the protection of habitats and species and that the SMP is compliant with requirements of the Shoreline Management Act and Growth Management Act. Surface streams that do not meet thresholds to be considered shorelines of the state are governed by provisions of the Critical Areas chapter, OMC 18.32. Note: Table 19.200.107A is not recognized so staff responses do not pertain to it.</p>

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			and feeder fish, and/or that may be known sources of degrading pollution.	
14t	General/SMP	H. Wheatley	Such an approach, including prioritization of long term over short term benefit, would demand protections from climate change impacts far beyond sea level rise and the geographically limited SLR plan. Conservation and restoration of natural shoreline and shoreline vegetation complexes is the best approach we have to assure protection of Puget Sound and interests in the face of climate change. Standards of environmental justice and heritage protection also point toward prioritization of conservation and restoration.	Comments noted. The City does support and encourage conservation and restoration.
14u	18.20.510 – Water Quality	H. Wheatley	A science-based approach would prioritize stormwater impacts and protection of shorelines from pollution. This would lead in an opposite direction to many of the currently proposed revisions, such as the concept of “functional disconnect” that essentially removes certain areas from protection because they are urban and developed. Prioritization of public access and water-based recreational use should also call this concept of “functional disconnect” into question.	Comments noted. The City adopted Low Impact Development Stormwater standards and works to prevent pollution. Additionally, efforts outside of the SMP occur, such as work on habitat restoration outside of the shoreline environment and through work with the LOTT Clean Water Alliance.
14v	General/SMP	H. Wheatley	The City is aware of potential projects that could have a profound impact on the shoreline during the near-future timeframe covered under this proposed set of revisions. We are now living through an unforeseen and sharply punctuated moment of demographic and economic shifts that may have implications for how shoreline recreation and access issues in Olympia should be addressed fairly and for greatest long term public benefit.	Comment noted. Any and all applications for development review will be reviewed for compliance with the rules and regulations in place at the time a proposal is vested, as is required by state and local codes.
14w	General/SMP	H. Wheatley	The regulatory gap analysis approach which largely framed the revision seems timid. The handful of revisions will not lead Olympia to substantial and measurable improvements in the metrics that truly matter. The	Comment noted. The purpose of the gap analysis was to identify where revisions are required in order to set the minimum scope of the periodic review required under state law. The primary purpose of the

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			proposed revisions seem to lead the charge in the opposite direction from bracing up the “political fortitude” of city regulators.	SMP Periodic Review is to make any necessary revisions to ensure the SMP is current with changes to state laws and adopted updates to local plans.
14x	General/SMP	H. Wheatley	It appears the scope of the task given to the consultants did not lay out a primary task of highlighting the areas of the current SMP that are insufficiently protective or suggesting revisions that could best optimize protectiveness. It appears where the contractor provided helpful advice the analysis may have been minimized or ignored.	Comment noted. The City believes the proposed amendments implement the required updates and highlight changes in local circumstance, such as the City’s adoption of a Sea Level Rise Response Plan. As noted above, the primary purpose of the SMP Periodic Review is to make any necessary revisions to ensure the SMP is current with changes to state laws and adopted updates to local plans. Conducting new studies or assessing environmental conditions is beyond the scope of this update.
14y	General/SMP	H. Wheatley	Every proposed revision should be examined through the lens of whether it brings the city closer to decreasing stress on South Puget Sound. The fundamental question for decision makers is: does this proposed revision help to turn the degradation around?	Comment noted. The majority of amendments are to ensure consistency with state law or improve usability and understanding of the SMP.
14z	General/SMP	H. Wheatley	There should be no revisions that actually carry the SMP further away from the SMA or that stymie the accelerating evolution of state policy in the face of the environmental crisis.	Comment noted. The City does not believe any of the proposed revisions carry the SMP further away from the intent or requirements of the SMA.
14aa	General/SMP	H. Wheatley	There should be reference to environmental justice and recognition of the shoreline’s cultural heritage as a home beyond a century’s legacies of built environment. There should be at least a gesture toward the need to prepare for a significant revamping of the SMP, in the next go-round, in order to adopt science-based adaptive management policies. For the present round of revision, the need to look forward might be addressed by calling for more inclusion of state-based scientific expertise on a regular basis to assure that the permitting process is truly protective. It would help to outline a sound program of	Comment noted. The City looks forward to a future comprehensive update of the SMP and an evaluation of ecological, cultural, and land use conditions. However, such a review is outside the scope of this periodic review.

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			data collection and management in order to establish metrics that can support adoption of adaptive shoreline management going forward.	
14bb	General/SMP	H. Wheatley	While some marginal commentary is made available, the intent of specific revisions to the SMP can be a challenge for the public to parse. Some revisions, such as incorporation of Sea Level Rise, are easy to interpret and sensible on their face. Others, such as revisions to processes related to permitting authority and the role of the hearing examiner, are harder to understand. If comments about specific revisions are off base due to misinterpretation of their scope, effects or intent, then please apply the fundamental criterion upon which these comments are based: the proposed revision should provide better real outcomes in protecting the shoreline than leaving the original language in place.	Comment noted. Additionally, there have been several briefings on the SMP Periodic Review at the Planning Commission during public meetings and staff have responded to questions regarding the purpose of proposed revisions. Additional information, including a detailed gap analysis and contact details for staff, are available on the City webpage at olympiawa.gov/smp .
14cc	Section 1, Purpose and Intent 1.6 Critical areas, Regulation by Reference	H. Wheatley	There appear to be areas where recently revised language of the CAO weakens shoreline protection, meaning that this revision should not be adopted. For example, the CAO appears to remove a prohibition on combining wetland buffer averaging and administrative wetland buffer reductions in shoreline areas. The impacts of changes to the OMC and its inadequacies for shoreline protection should be clearly stated for decision makers as they consider adopting this revision. The Watershed Company states that the OMC itself needs to be updated in many areas to follow state guidance. The SMA is powerless to effect such changes to the Olympia code. This is precisely why the legislature finds that there should be a separation between the SMA, the GMA, and city ordinances. The tables provided by The Watershed Company in its section on "Consistency with the Critical Areas Ordinance" may provide a useful starting point for revision of Critical Area language that brings actual	The existing CAO already contains language which prohibits the combined use of buffer averaging and buffer reduction in OMC 18.32.535. No amendment is proposed to that provision in the CAO or the SMP 18.20.420. State law requires local jurisdictions to regulate critical areas that are present in shoreline jurisdiction via policies and regulations contained in the SMP. For consistency within and outside of shoreline jurisdiction, the City is adopting the most recent CAO by reference in the SMP.

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			improvement, as discussed above in regard to WDFW priority habitats. This also includes the listing/mapping of critical areas. Critical areas under the SMA should look first and foremost to state standards.	
14dd	Table Section 1.2	H. Wheatley	This adds confusion and should be removed. It is oversimplified and may cause members of the public to miss useful elements of other tools and policies by implying that they are absent or not applicable. There is no case to be made that this table improves shoreline protection.	This existing table provides a useful summary of other regulatory and policy tools that apply and is intended to help readers identify other city plans and codes that may also affect development proposals. The only revision proposed at this time is to show that the SMP also addresses sea level rise, in addition to the Comprehensive Plan, the Zoning Code, the Engineering Development and Design Standards, Floodplain Codes, SEPA, and the Capital Facilities Plan currently noted.
14ee	Section 1.3(C) and no net loss	H. Wheatley	From the way it is worded, Section 1.3 (C) implies that RCW 90.58.020 calls for, or at least accedes to a policy of “no net loss of shoreline ecological functions”. This is not true. It should be made clear that the concept of “no net loss” is a City policy formulation at this point. A better revision would call for a net <i>gain</i> of shoreline ecological functions in order to “foster the policy contained in RCW 90.58.020.”	Comment noted. Section 1.3 is not proposed for amendment and is consistent with state guidelines.
14ff	Section 1.3 – Purpose and Intent	H. Wheatley	The statement of “purpose and intent” in Section 1 should set a tone appropriate to the challenges of achieving good shoreline policy in the context of climate change and the ecological collapse of Puget Sound. It should incorporate environmental justice and meeting the city’s obligations to and honoring the cultural heritage of the tribes. It should bolster the regional context of shoreline protection by making specific reference to Olympia’s role as guardian of the shoreline under the SMA.	Comment noted. Section 1.3 is not proposed for amendment and is consistent with state guidelines.

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14gg	Section 2.1 – SMP Goals and Policies	H. Wheatley	It is unclear why #7 is added when it does not appear to be part of the list in the current RCW. This seems to change Section A from an enumeration of priorities under the SMA, to a hybrid of state and city priorities.	Appendix A of the Washington State Department of Ecology’s Shoreline Master Program Handbook is about Addressing Sea Level Rise in SMPs. While not specifically required it is certainly becoming more common as counties and cities work to use the most current, accurate and complete information regarding sea level rise and marine shorelines.
14hh	Sea Level Rise	H. Wheatley	Current SLR planning does not incorporate all six miles of Olympia marine shoreline, or even address impacts of SLR to groundwater. There is no reason to wait for the city and its SLR plan to catch up with the need to regulate the shoreline for SLR and other climate change impacts (long term benefit). Much of this can probably be developed in subsection G.	The City will continue its efforts, over time, to understand and address sea level rise. This is likely to increase the portions of the City and portions of the Urban Growth Area that will be addressed. As Sea Level Rise and Comprehensive Plans are updated, additional amendments to the SMP may be included in the future.
14ii	Section 2.1 F – SMP Goals and Policies	H. Wheatley	For subsection F, it would be appropriate to add a qualifier, give the state’s preference that shoreline management be conducted according to what is optimal for long term and natural shoreline protection over the long term. The policies and regulations should be integrated and coordinated, <i>to the extent practicable</i> , with the other goals, etc.	Comment noted. Section 2.1 F is not proposed for amendment and is consistent with state guidelines.
14jj	Section 2.1 – C & D 18.20.120: Definitions	H. Wheatley	The SMA is inadequate in its definitions. What is the best way to identify a “shoreline of the state”? How does climate change challenge definitions based on tidelines, high and low water marks, 100 year floodplains, and the like? Is the concept of an “urban Intensity” shoreline consistent with what science now tells us about where shoreline should be preserved or even restored? Based on better understanding of salmonid ecology, how should a “segment” of a “natural river” be defined? (Suggestion: include “stems” that flow into a river’s estuary.) This revision period is a good time to present ideas on how to make science happen as policy.	Comment noted. Shoreline jurisdiction is determined based on state law as defined in RCW 90.58.030.

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14kk	Section 2.15 K Public Access Policies	H. Wheatley	Do not accept revision of public access policies that permit new development or redevelopment without on-site public access. Use public input to define “adequate public access” and “immediate vicinity”.	See response to Comment 13a
14ll	Section 2.21 B Agriculture	H. Wheatley	There is no reason to assume that well managed land use for agriculture is worse than other land uses. The prohibition against agricultural uses should be revised.	Comment noted. This is an existing policy that is not proposed for amendment. The prohibition on new agriculture within the city’s shorelines was established at the time of the comprehensive SMP update, if not earlier.
14mm	Section 2.31 F Dredging	H. Wheatley	If it enhances shoreline protection and provides additional environmental safeguards, then revisions to dredging policy are welcome.	Comment noted.
14nn	Section 2.34 M & throughout - West Bay Environmental Assessment Report	H. Wheatley	Restoration and Enhancement Policies and other parts of the SMA should not specifically cite the West Bay Environmental Restoration Assessment Report. Its appearance throughout the SMA has all the appearance of an effort to gain backdoor approval of a specific project. All reference should be removed. The same goes for the Sea Level Response Plan. If there are general policies that can be derived from a referenced report or study (such as the considering the SLR to “determine the minimum necessary size of shoreline stabilization structures,”) then apply the principle, and apply it across the board (for example, to <i>all</i> shorelines affected by SLR). If it doesn’t fit across the board (soft shorelines are preferable to shoreline stabilization structures) then maybe it doesn’t belong at all.	Comment noted. Reference to the West Bay Environmental Restoration Assessment Report and the Sea Level Response Plan have been included in the SMP to add clarity and understanding for how various sections may apply.
14oo	18.20.120 - Definitions	H. Wheatley	May not be necessary if a Port RV park is not deemed an improvement to shoreline policy.	Comment noted.
14pp	Functional Disconnect (various)	H. Wheatley	As previously discussed, this is not a scientifically or socially sound concept. It should be removed throughout. What is not scientific about it: it ignores the	Comment noted. Please see the response to comment 2C. The term functional disconnect has been added to the definitions section and clearly

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	18.20.120 – Definitions, 18.20.450 - Public Access, 18.20.460 – Design of Public Access		existence of groundwater, stormwater or anything else, possibly including pollutants, that may move across the named structural elements. What is not socially sound: The concept appears to be applied largely in terms of public access and impacts. But it is not clear that the concept works even in a limited context. For example, the existence of a road does not functionally disconnect a viewer’s ability to see the shoreline from the upland side of a road or across a public space. A person or other mobile thing can move across space and not subjectively experience it as a “disconnect.” The concept also appears to be applied in regard to setbacks, where again it should not be assumed that the existence of a physical structure will somehow remove the rationale for a setback requirement. In the absence of a persuasive argument that this can or should be implemented as a universal policy without doing potential harm to achieving the optimal protection of the shoreline in all its aspects, the notion of “functional disconnect” should be eliminated, and each permitting situation should be addressed on its merits.	identifies that it applies in situations where an existing intersecting development has eliminated the capacity for ecological function.
14qq	18.20.120, 18.20.450, 18.20.460	H. Wheatley	On the topic of public access, lines of sight, etc: shorelines under the SMA are not limited to saltwater but include lakes and streams. It is not clear that the City of Olympia has given due consideration to optimizing public access along non-marine shorelines.	Comment noted. The public access provisions apply across shorelines governed by the SMP, including all applicable marine and freshwater shorelines.
14rr	Exceptions to Local Review 3.6 (A) 18.20.215	H. Wheatley	Specific meaning is unclear, “environmental excellence” does not necessarily equate to “most protective of the shoreline.” This language probably goes against the priorities of the SMA. The same applies to the Energy Facility Site Evaluation Council process listed elsewhere. Other items in Section A apply to facilities that already exist and are therefore probably not objectionable.	The exception to local review is allowed under the SMA when subject to an environmental excellence program agreement (RCW 90.58.045 and 43.21K). Such projects favor or promote pollution prevention, source reduction, or improvements that are transferable to others or that can achieve better environmental results than required by applicable

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				rules and requirements. These are statutory exceptions per WAC 173-27-044 and -045.
14ss	Section 3.13 Shoreline Permit Procedures 18.20.280(C)	H. Wheatley	This appears to revise the exemption process in order to liberalize permitting in ways that provide no apparent benefit to the shoreline compared to the original language. It may actually broaden the range of permit exemptions. It appears to remove some criteria for exemption, such as: already being exempt from SEPA <i>and</i> being “entirely upland of the Ordinary High Water Mark.” It appears to remove the criterion that an exemption application can’t be decided by an Administrator if a public hearing is requested by an interested party. It appears to broaden the scope of permits and applications that can be decided by a Hearing Examiner. Such proposed revisions do not forward the cause of shoreline protection and should not be included.	This revision is intended to clarify that not all shoreline permits are required to go to the Hearing Examiner, that some lesser proposals can be decided by the Shoreline Administrator in accordance with the SMA.
14tt	Section 3.81 Expansion of Nonconforming Structures, 18.20.900	H. Wheatley	What is the benefit to the shoreline or public in revising the SMA to allow expansion of nonconforming structures? The city should consider whether it wants to encourage this with climate change and sea level rise. This revision has yet to be fully discussed by the community in terms of climate/SLR strategy. The same consideration applies to the revision allowing for reconstruction of nonconforming structures damaged or destroyed by acts of nature. This revision appears counterproductive to encouraging most protective outcomes.	Comment noted. Amendment is intended to add clarity that certain nonconforming structures may be expanded in accordance with the alteration allowances in 18.20.910.
15	-	Sam Merrell, Audubon	Black Hills Audubon endorses the comments submitted by Harry Branch. We agree with his arguments that an ecosystem, science-based approach is needed protect the flora and fauna of Budd Inlet and other waterways.	Concurrence noted.
16	Public Hearing Testimony	Robert Vadas	Concern about the shoreline setback reduction proposed for the West Bay Park area, that it may be an opportunity	Comment noted. The request to reduce the 150-foot shoreline setback and minimum width of the

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		01/11/2021	<p>for businesses to develop closer to the shoreline. Why not limit this so it applies to the park only?</p> <p>Concern about RV park idea and concern about greater living opportunities in marinas since there are oxygen problems in the water. My concern is about the oxygen problem. We need more than the status quo.</p>	<p>Vegetation Conservation Area (VCA) was originally considered to allow for some park improvements at West Bay Park and to reduce the number of privately owned nonconforming structures in the Waterfront Recreation shoreline environment, some of which are approximately 40-feet from the ordinary high water mark.</p> <p>Proposed revisions regarding camping is meant to clarify that camping, including for RVs, would be allowed as a recreational use in the Marine Recreation shoreline environment.</p> <p>Proposed revisions to address live-aboards are meant to provide a cap on the number of slips in a marina that can be used for housing, while accommodating the number of existing live-aboards within the city so as not to create non-conforming marinas. In order to allow live-aboards in marinas, certain facilities must be provided including solid waste and sewer facilities.</p> <p><i>Proposed change: The City has amended Table 6-3, Setbacks and Incentives, located in section 18.26.620, Use and Development Standards Tables, to adjust the proposed setback in the Waterfront Recreation shoreline environment on the west side of West Bay (Reach Budd 3B) to 50 feet rather than the previously proposed 30 feet.</i></p>
17	Public Hearing Testimony	Harry Branch 01/11/2021	<p>Percival Creek is mentioned as having more than 20 cfs of flow. Why aren't Moxlie, Indian, Ellis, or Schneider Creeks included? I am concerned about the condition of streams in Olympia and in particular intertidal culverts, which have serious impacts on water quality. 160 miles of streams run through culverts and pipes. Olympia puts streams in pipes and then denies they ever existed. We need a holistic, ecosystem approach to critical areas and</p>	<p>The City's comprehensive SMP update, approved in 2015, included an in-depth inventory and characterization of shoreline areas. This included assessing data (provided by the USGS) for freshwater streams which meet the 20cfs mean annual flow threshold. The scope of this periodic review does not include a re-evaluation of these findings.</p>

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			the baseline should be that which existed historically. The paradigm of no net loss has failed.	
18	Public Hearing Testimony	Jason Gano 01/11/2021	I am the new Political Director with the Olympia Masters Builders and I am looking forward to working with you over the coming year.	Comment noted.

Several comments submitted raised concerns about the health of the Puget Sound including species protection and water quality issues. Some comments were beyond the scope of the Shoreline Master Program Periodic Review. Below is a high level overview of some of the efforts underway to help improve the health of the Puget Sound.

Health of the Puget Sound

Many of the comments summarized above are related to the health of the Puget Sound. There are several significant efforts underway to address the health of the Puget Sound. Most of these efforts are addressed by state or federal agencies and, while related to the City’s Shoreline Master Program and Critical Areas Ordinance, are beyond the scope of the local SMP. For example, the state’s Puget Sound Partnership, Orca Task Force, and the Salmon Recovery and Puget Sound Acquisition and Restoration program are just some of the entities working to improve habitat and water quality. Several Federal and State agencies are involved in this important work. Some work is focused on particular species like salmon or resident orcas while other work focuses on pollution prevention, recovery, restoration, education and information, and scientific support. The federal government also coordinates with Canada regarding the Salish Sea, which includes Puget Sound.

Laws such as the Endangered Species Act and the Clean Water Act are addressed by both State Agencies (Washington State Department of Fish and Wildlife and the Washington State Department of Ecology) and local governments. For example, the City of Olympia relies on the Priority Habitats and Species maps and guidance from the Dept. of Fish and Wildlife, as well as guidance from the Dept. of Ecology on wetlands, in the regulation of environmentally sensitive areas through the Critical Areas Ordinance. And the City of Olympia has a NPDES Permit from the state regarding stormwater. Other organizations, such as the LOTT Cleanwater Alliance, work with the Dept. of Ecology regarding the treatment of wastewater.

Related Resources

- US Environmental Protection Agency – Puget Sound: <https://www.epa.gov/puget-sound>
 - Washington State Department of Ecology – Puget Sound: <https://ecology.wa.gov/Water-Shorelines/Puget-Sound>
 - Puget Sound Partnership – Puget Sound Recovery: <https://www.psp.wa.gov/puget-sound-recovery.php>
- City of Olympia SMP Periodic Review – Response to Public Comments

Orca Task Force: <https://ecology.wa.gov/Water-Shorelines/Puget-Sound/Orca-task-force>

WA State Recreation and Conservation Office - Salmon Recovery and Puget Sound Acquisition and Restoration: <https://rco.wa.gov/grant/salmon-recovery/>

Washington State Dept. of Fish and Wildlife – Priority Habitats and Species: <https://wdfw.wa.gov/species-habitats/at-risk/phs>

LOTT Cleanwater Alliance – Wastewater Treatment: <https://lottcleanwater.org/about-lott/wastewater-treatment/>

Long-Term Planning for Capitol Lake - Deschutes Estuary: <https://des.wa.gov/about/projects-initiatives/capitol-lake/long-term-planning-capitol-lake-deschutes-estuary>

Amendments proposed After Public Hearing

The City of Olympia is proposing amendments to the Shoreline Master Program (SMP) and Critical Areas Ordinance (CAO) based on the results of the Gap Analysis, as part of the Periodic Review. Additional amendments are proposed based on the recommendation of the Olympia Planning Commission and public comments received. The additional proposed amendments are as follows:



Planning Commission Recommendation:

1. SMP: The setback and vegetation conservation area for the portion of the Waterfront Recreation Shoreline Environment adjacent to Budd Bay shall be a minimum of 50 feet instead of 30 feet as recommended by staff, and
2. SMP: The term 'dredge spoils' shall be revised to 'dredge materials'.

In response to comments received:

1. SMP: Section 2.5 – remove the phrase “waterward of the ordinary high water mark” to help encourage soft shoreline stabilization both above and below the ordinary high water mark.
2. CAO 18.32.400 – remove reference to marine and lake shorelines in reference to streams and priority riparian areas.
3. CAO 18.32.405 – amend description on priority riparian areas to remove reference to marine waters and to clarify that lake shorelines included are those lakes that are not subject to the SMP.
4. CAO 18.32.410 – remove Type S streams from water typing system since all Type S waters are governed by the SMP.
5. CAO 18.32.435 – remove Type S waters from the Stream Type and Description Table, since Type S waters are governed by the SMP.

Chapter 18.32 CRITICAL AREAS

...

18.32.400 Streams and Priority Riparian Areas – Purpose and Intent

In order to preserve the natural functions of streams and "priority riparian areas" by controlling siltation, minimizing turbidity, protecting nutrient reserves, maintaining stream flows, providing a source of large woody debris, preserving natural flood storage capacities, protecting fish bearing waters, preserving overhanging vegetation, providing groundwater recharge, and protecting the wildlife habitat associated with streams and intact riparian areas, all areas within three hundred (300) feet of such waters shall be subject to the standards in OMC 18.32.405 through OMC 18.32.445. (Note: Further information regarding development along marine shorelines, lakes over 20 acres in size, and streams can be found in the City's Shoreline Master Program).

18.32.405 Streams and Priority Riparian Areas – Applicability and Definition

A. "Streams" means an area where surface waters flow sufficiently to produce a defined channel or bed, i.e., an area which demonstrates clear evidence of the passage of water including but not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction.

B. "Priority Riparian Areas" means those lake shorelines not subject to the Shoreline Master Program, as measured from the ordinary high water mark, and encompassing its buffer.

18.32.410 Streams and Priority Riparian Areas – Typing System

Streams are grouped into categories according to the Washington Department of Natural Resources Water Typing System. The criteria, definitions and methods for determining the water type of a stream are found in WAC 222-16-031.

- A. "Type F streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type F Water. Type F streams contain fish habitat.
- B. "Type Np streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type Np Water. Type Np streams do not contain fish habitat.
- C. "Type Ns streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-031, as a Type Ns Water. These streams are areas of perennial or intermittent seepage, and ponds and drainage ways having short periods of spring or storm runoff. Type Ns streams do not contain fish habitat.
- D. Waters having any of the following characteristics are presumed to have fish use:
 - 1. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient of 16 percent or less;
 - 2. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size based on hydrographic boundaries;
 - 3. Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;
 - 4. Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water.

18.32.435 Streams and Priority Riparian Areas – Buffers

A. Buffers shall be required as set forth for each stream type or "priority riparian area." The required buffers shall be delineated, both on a site plan or plat and on the property, prior to approval of any regulated activity.

B. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers.

C. Stream buffers shall be based on the water type classification as established by the Department of Natural Resources Stream Typing Classification System and required by OMC 18.32.410. The table below includes detail differentiating stream types based on fish habitat presence, stream widths, and mass wasting potential:

Stream Type and Description	Buffer
Type F streams greater than 5 feet wide (bankfull width) that provide habitat for fish	250 feet
Type F streams less than 5 feet wide (bankfull width) that provide habitat for fish	200 feet
Type Np and Ns streams (no fish habitat) with high mass wasting potential	225 feet
Type Np and Ns streams (no fish habitat) without high mass wasting potential	150 feet

1. Stream buffers shall be measured on a horizontal plane, outward from the ordinary high water mark (OHWM) on each side of the stream. (See Figure 32-1).

2. For streams that occur within ravines (which are not designated as a landslide hazard area) and where the standard buffer extends onto a slope of 30% or greater that is at least 10 feet in height, the buffer shall extend a minimum of 25 feet beyond the top of the slope to protect the stream channel from sediment loading from mass wasting events (e.g., landslides, earth/debris flows and slumps, and rock falls/earth topples) and reduce the risk to structures and human safety.

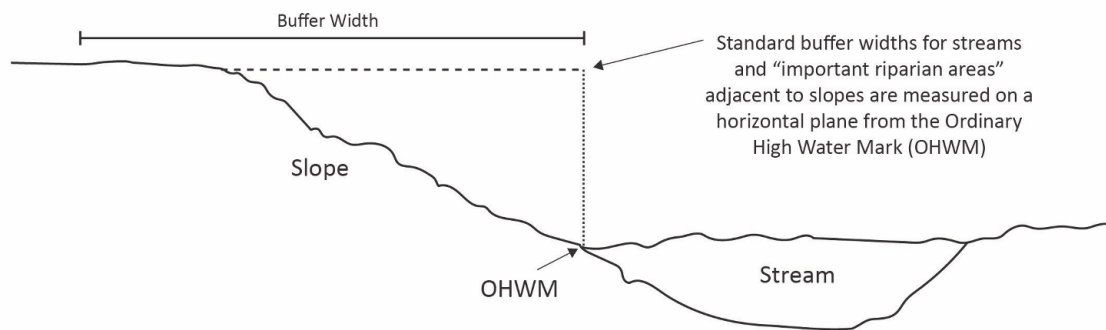


FIGURE 32-1

D. Maintain a buffer of existing vegetation for "priority riparian areas" as defined in OMC 18.32.405.

E. The stream or "priority riparian area" buffer widths contained in OMC 18.32.435 C presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted with a density and species composition commonly found in comparable but healthy riparian areas of Thurston County and as approved by the City of Olympia Urban Forester.

F. The Department may reduce the required stream or "priority riparian area" buffer widths up to twenty five percent (25%) on a case-by-case basis in accordance with a Biological Assessment described in OMC 18.32.445 when it can be demonstrated that:

1. The existing buffer area is not a high functioning buffer but instead is currently providing reduced functions due to existing land uses or previous alterations;

2. Protection of the stream or "priority riparian area" buffer using a fence and sign have been provided, as described in OMC 18.32.145;
3. Topographic conditions of the site and the buffer are protective of the stream;
4. The intensity and type of the land uses adjacent to the buffer will minimize potential adverse impacts upon the stream and wildlife habitat; [e.g., publicly owned parks, designated open space areas in plats and binding site plans, or lands with a recorded conservation easement];
5. The site design and building layout will minimize potential adverse impacts upon the stream and wildlife habitat;
6. The smaller buffer will be adequate to protect the functions of the stream based on the best available science; and
7. Alternative mitigation measures as provided in "Land Use Planning for Salmon, Steelhead and Trout: A Land planner's guide to salmonid habitat protection and recovery," Washington Department of Fish and Wildlife, 2009, have been proposed by the applicant and approved by the Department.

G. If a stream segment is removed from a culvert it will not be required to meet the stream buffer requirements of OMC 18.32.435. It shall comply with the purpose and intent of this title to the degree possible, as determined by the Department.

H. The required stream buffer widths shall be increased when the Department determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the stream and/or to protect habitat corridors between streams and other habitats.

18.32.510 Wetlands – Rating System

A. The Washington State Wetland Rating System for Western Washington (2014 update) as amended or revised, shall be used to determine if the wetland is a Category I, II, III or IV wetland. These documents contain the criteria, definitions and methods for determining if the criteria below are met.

1. Category I wetlands are (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.
2. Category II wetlands are (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring 20 to 22 points).
3. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
4. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

B. Wetland rating categories shall be applied as the wetland exists on the date of application. However, wetland ratings shall not recognize alterations resulting from illegal activities.

18.32.535 Wetlands – Wetland Buffers

- A. Wetland buffer areas shall be maintained between all regulated activities and wetlands to retain the wetland’s natural functions and values. Wetland buffers are based upon the rating of the wetland pursuant to OMC 18.32.575.
- B. The required width of the wetland buffer shall be determined as provided in the table below.

Table 32-1: Wetland Buffer Widths

Wetland Characteristics	Wetland Buffer Width
Wetlands of High Conservation Value and Bogs	Not less than 250 feet
Estuarine - Category I	250 feet
Estuarine - Category II	150 feet
Habitat score: 3 pts	80 feet
Habitat score: 4 pts	100 feet
Habitat score: 5 pts	140 feet
Habitat score: 6 pts	180 feet
Habitat score: 7 pts	220 feet
Habitat score: 8 pts	260 feet
Habitat score: 9 pts	300 feet
Water Quality Improvement Score: 8 - 9 pts, and Habitat score: 4 pts or less	100 feet
Category I or II Wetland - Not meeting any of the above criteria	100 feet
Category III Wetland - Not meeting any of the above criteria	80 feet
Category IV Wetland - Score for all three wetland functions is less than 16 pts	50 feet

- C. All wetland buffers shall be measured from the wetland boundary.
- D. The wetland buffer widths contained in OMC 18.32.535 Table 32-1 presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted with native trees to a density common in the specific buffer area and an understory of native plants commonly found in riparian areas of Thurston County.
- E. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
- F. The Department may allow modification of the required wetland buffer width by either allowing a reduction pursuant to OMC 18.32.535(G) or by allowing averaging of buffer widths when all of the following conditions are met:
 - 1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area,
 - 2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion,

3. The total area of the buffer after averaging is equal to the area required without averaging, and
4. The buffer at its narrowest point is never less than seventy five percent (75%) of the required width.

G. If buffer averaging has not been used, the Department may reduce the required wetland buffer widths by twenty five percent (25%) under the following conditions:

1. For wetlands that score six (6) points or more for the habitat functions, if both of the following criteria are met:
 - a. A relatively undisturbed, vegetated corridor at least one hundred (100) feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the priority habitat by legal protection such as a conservation easement.
 - b. Measures to minimize the impacts of different land uses on wetlands, such as those described in Wetland Guidance for CAO Updates, Western Washington (2016) Ecology publication #16-06-001, as amended or revised, are applied. Examples of these measures include directing lighting away from wetland, locating noise generating activities away from the wetland, and densely planting the buffer to act as barrier to pets and human disturbance.
2. For wetlands that score five (5) points or less for habitat function, apply the provisions of OMC 18.32.535(G)(1)(b).

H. The Department or Hearing Examiner, as appropriate, shall require increased buffer widths in accordance with the recommendations of an experienced, qualified wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

1. A larger buffer is needed to protect other critical areas;
2. The buffer or adjacent uplands has a slope greater than fifteen percent (15%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or
3. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three (3) feet on center for shrubs and eight (8) feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of non-native plants when:
 - a. non-native or invasive plant species provide the dominant cover,
 - b. vegetation is lacking due to disturbance and wetland resources could be adversely affected, or
 - c. enhancement plantings in the buffer could significantly improve buffer functions.

From: hwbranch@aol.com
To: [Joyce Phillips](#)
Subject: Re: Shoreline Master Program
Date: Wednesday, January 13, 2021 6:44:43 PM

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Dear Olympia planning commission

In followup to monday night's meeting by the Planning Commission...

Percival Creek was mentioned as having great ecological value because it flows more than 20 cubic feet per second. I inquired as to why no other streams are mentioned. Today I read that Moxlie Creek exceeds that number and near the confluence with Indian Creek can run, on a day like today, as high as 97 cubic feet per second. I find no data on Schneider or Ellis Creeks but my guess is that all these streams would qualify.

Once again, why are these streams considered to have no value? We have numerous opportunities for restoration in these watersheds, long sections of culvert and other armoring that could easily be removed.

The problem for these watersheds is that they are in areas where we want to direct development. The driving wheel is entirely development. If a stream exists in such an area we simply pretend that it doesn't exist.

Harry Branch

To: jphillip@ci.olympia.wa.us <jphillip@ci.olympia.wa.us>
Sent: Mon, Jan 4, 2021 7:31 am
Subject: Shoreline Master Program

Regarding the Shoreline Master Program (SMP)

City of Olympia:

The public has become keenly aware of the plight of the Souther Resident Killer Whale and their principal prey Chinook salmon. We're slowly learning about the plight of Walleye Pollock, Pacific Herring, Pacific Cod, 15 species of rockfish, chum and sockeye salmon, steelhead, various mollusks and birds, insects and invertebrates. As of December 1, 2015, there were 125 species at risk in the Salish Sea and the number continues to grow. Much of the loss has occurred over the past two decades, under current rules, the status quo, the cauldron of 'mitigation banking' 'no net loss,' and the rest of the regulatory stew.

Allowing a water body to remain physically damaged results in degraded water quality which impacts species composition which degrades water quality which impacts species composition and so on spiraling downward. There is an ongoing net loss caused by existing modifications. A stream in a pipe has no phytoplankton. This is why nitrates travel 18 times farther in a buried pipe than one that sees daylight. And why buried streams are low in dissolved oxygen.

The most critical part of any local watershed is its estuary. Estuaries are those places where fresh water coming from land meets the marine environment. Fresh water being lighter flows out on top of salt water creating persistent circulation patterns. In a pipe circulation is restricted. If we have sunlight we have a mix of phytoplankton and zooplankton and the birth of the food web. Without sunlight we have a septic tank. In the SMP, potential is never a consideration. Restoration potential should be part of every equation. The baseline should be that which existed historically.

The high water mark is the point from which setbacks are measured. The high water mark for the two major streams draining into Budd Inlet lies inside long culverts. The tide flows up a long pipe in both Moxlie and Schneider Creeks. In fact, there are 160 miles of stream-in-a-pipe in Olympia. In regulatory terms they don't even exist. To contradict this edict represents a "collateral attack" on City Codes. If you appeal before the Hearing Examiner, you'll also be informed that you lack standing, unless you or your property will be damaged. Birds, fish and marine mammals have no standing.

The most substantive issue brought up by the State in the Shoreline Master Program Periodic Review is the statement "The City's wetland buffers are not current with the State's most recent guidance." The City's response is that recommendations would result in "little change in the City's current buffer widths" and amendments would be made to chapter 18:32 of the Olympia Municipal Code (Critical Areas) rather than the SMP itself. But revisions to Olympia code 18:32 make no substantive changes to setbacks. It continues to recommend protecting critical areas, aiming at no net loss and providing mitigation for unavoidable impacts through minimizing, rectifying, reducing and compensating for loss.

Priority Riparian Areas are listed as the eastern shore of Budd Inlet, including and north from Priest Point Park, long stretches of western shore of Budd Inlet including West Bay Waterfront Park and the Port Lagoon and much of the shore of Capitol Lake. The priority areas are essentially parks. The prevailing assumption seems to be that humans must destroy any place we reside.

The most glaring unspoken conclusion is that we should simply give up on East Bay, the half-mile long embayment south of Priest Point Park. It's been severely modified and has the worst benthic dioxin contamination and the poorest water quality in Budd Inlet. Although this way of thinking is in some cases justified, in this instance it represents a clear violation of the Clean Water Act, the Endangered Species Act and numerous other State and Federal laws and regulations.

How about some real changes:

- (1) Restoration potential should be part of every equation. The potential inherent in a location should never be ignored.
- (2) Under City Code once a stream goes into a pipe in Olympia it no longer exists. Likewise if it's ever day-lighted rules don't apply. This makes sense where there's currently a structure but not as justification for new construction. We should change the rule to in such instances recognize the existence of streams.
- (4) The best available science should be employed in every study including a clearly stated observation, hypothesis, test and conclusion otherwise the effort can be incomplete, misdirected and conclusions can be buried in data. Sites should be sampled for any contaminants suspected of possibly being at the site, according to established protocols.
- (5) We need to take a holistic, ecosystem based approach to our critical areas. The baseline should be that which existed historically. Every effort should be made to determine how physical parameters like structure impact chemical parameters such as dissolved oxygen and biological parameters such as phytoplankton.
- (6) We should provide SRKW orcas with legal standing, consistent with the global Rights of Nature movement.

Harry Branch
239 Cushing St NW
Olympia WA 98502
360-943-8508



**Nisqually Indian Tribe
4820 She-Nah-Num Dr. S.E.
Olympia, WA 98513
(360) 456-5221**

January 26, 2021

Joyce Phillips, AICP
Senior Planner
City of Olympia
Community Planning and Development
601 4th Avenue
Olympia WA 98507

Dear Ms. Phillips,

The Nisqually Indian Tribe thanks you for the opportunity to comment on:

Re: 20-4936

The Nisqually Indian Tribe's THPO has reviewed the notice of application and accompanying documents that were provided for the above named project and has no further comments or concerns. Please keep us informed if there are any Inadvertent Discoveries of Archaeological Resources/Human Burials.

Sincerely,

Brad Beach
THPO Department
360-456-5221 ext 1277
beach.brad@nisqually-nsn.gov

Annette "Nettsie" Bullchild
THPO Department
360-456-5221 ext 1106
bullchild.annette@nisqually-nsn.gov

From: [Joyce Phillips](#)
To: [Esther Grace Kronenberg](#)
Cc: [Kenneth Haner](#); [Anastasia Everett](#); [Cari Hornbein](#)
Subject: RE: Public comment on SMP
Date: Monday, February 08, 2021 2:33:00 PM

Hi, Ms. Kronenberg.

I wanted to follow up and let you know that the public comment period on the SMP Periodic Review is closed. The comments you sent to me on January 5, 2021 were provided to the Planning Commission. Any new written comments received now will not be forwarded to the Planning Commission. However, any written comments received between the close of the public comment period and the date of the City Council's consideration will be forwarded to City Council. I have already received a couple of comments that came in after the public comment period closed but that will be shared with Councilmembers. You can send any comments in writing to me at this email address and I will gladly include them in the packet that goes to the Council.

If you do wish to comment to the Planning Commission, you will be able to do so during the public comment portion of the Planning Commission meeting as long as it is at least 45 days after the public hearing, which was held on January 11, 2021. The first meeting the OPC will hold after the 45-day period will be on Monday, March 1, 2021. This is consistent with both the Planning Commission and City Council policy on public testimony at public meetings.

I hope that helps.
Joyce

Joyce Phillips, AICP, Senior Planner
City of Olympia | Community Planning and Development
601 4th Avenue East | PO Box 1967, Olympia WA 98507-1967
360.570.3722 | olympiawa.gov

Note: Emails are public records, and are potentially eligible for release.

From: Cari Hornbein <chornbei@ci.olympia.wa.us>
Sent: Monday, February 08, 2021 9:56 AM
To: Joyce Phillips <jphillip@ci.olympia.wa.us>
Cc: Kenneth Haner <khaner@ci.olympia.wa.us>; Anastasia Everett <aeverett@ci.olympia.wa.us>
Subject: FW: Public comment on SMP

Good morning Joyce,

Anastasia forwarded this e-mail to me. Technically Esther can't comment on the SMP tonight since the hearing is closed and the Planning Commission is in deliberations. Do you want to

forward her request to the Commissioners so they're aware of the request?

Thanks,

Cari Hornbein, AICP, Senior Planner

City of Olympia
Community Planning and Development Department
360-753-8048 | chornbei@ci.olympia.wa.us

From: Anastasia Everett <aeverett@ci.olympia.wa.us>

Sent: Monday, February 08, 2021 7:41 AM

To: Cari Hornbein <chornbei@ci.olympia.wa.us>

Subject: Fw: Public comment on SMP

Hi Cari, I received this email and am forwarding to you. She would like to provide comment tonight as well, I'll fill Ken in. Thank you!!

Anastasia

From: Anastasia Everett <aeverett@ci.olympia.wa.us>

Sent: Monday, February 8, 2021 7:39 AM

To: Esther Grace Kronenberg <wekrone@gmail.com>

Subject: Re: Public comment on SMP

Hi Esther,

I've forwarded your request and comment to the Planning Commission liaison. I will also communicate with the staff hosting the meeting tonight you'd like to make comment. Thank you.

Best,

Anastasia Everett

From: Esther Grace Kronenberg <wekrone@gmail.com>

Sent: Saturday, February 6, 2021 10:35 PM

To: Anastasia Everett <aeverett@ci.olympia.wa.us>

Subject: Public comment on SMP

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or opening attachments.

Hi,

My understanding is that there's been a public hearing January 11 and that public comment has been closed. I would like to suggest the public comment period be kept open longer since many people's attention was on national matters last month and were not aware of the discussions on the SMP. The SMP deserves a more transparent process and more citizen input. The June 30 deadline should allow for this with no problems.

I would like to make a comment to the Commission at the meeting, though I said no on my registration. Please make that change.

Thank you.

Esther Kronenberg

Sent from cyberheaven

From: [Joyce Phillips](mailto:Joyce.Phillips@ci.olympia.wa.us)
To: silverman.shari@gmail.com
Cc: [Anastasia Everett](mailto:Anastasia.Everett@ci.olympia.wa.us); [Kenneth Haner](mailto:Kenneth.Haner@ci.olympia.wa.us); [Cari Hornbein](mailto:Cari.Hornbein@ci.olympia.wa.us)
Subject: FW: SMP Public Comment
Date: Monday, February 08, 2021 2:27:00 PM

Hello, Ms. Silverman.

I wanted to follow up and let you know that the public comment period on the SMP Periodic Review has closed. Any written comments received now will not be forwarded to the Planning Commission. However, any written comments received between the close of the public comment period and the date of the City Council's consideration will be forwarded to City Council. I have already received a couple of comments that came in after the public comment period closed but that will be shared with Councilmembers. You can send any comments in writing to me at this email address and I will gladly include them in the packet that goes to the Council.

If you do wish to comment to the Planning Commission, you will be able to do so during the public comment portion of the Planning Commission meeting as long as it is at least 45 days after the public hearing, which was held on January 11, 2021. The first meeting the OPC will hold after the 45-day period will be on Monday, March 1, 2021. This is consistent with both the Planning Commission and City Council policy on public testimony at public meetings.

I hope that helps.
Joyce

Joyce Phillips, AICP, Senior Planner
City of Olympia | Community Planning and Development
601 4th Avenue East | PO Box 1967, Olympia WA 98507-1967
360.570.3722 | olympiawa.gov

Note: Emails are public records, and are potentially eligible for release.

From: Anastasia Everett <aeverett@ci.olympia.wa.us>
Sent: Monday, February 08, 2021 12:29 PM
To: Joyce Phillips <jphillip@ci.olympia.wa.us>
Subject: Fw: SMP Public Comment

Hi Joyce, I received this email from someone regarding the SMP. I'll reply to her and let her know I forwarded her message. Thank you!

Anastasia

From: Shari Silverman <silverman.shari@gmail.com>
Sent: Monday, February 8, 2021 12:22 PM
To: Anastasia Everett <aeverett@ci.olympia.wa.us>
Subject: SMP Public Comment

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Hi,

I saw that the public comments on the SMP have been closed. Is there any way to get the comments re-opened for a few more weeks?

Thanks,
Shari Silverman

Silverman.shari@gmail.com



Land Use & Environment Committee

Short Term Rental Regulations

Agenda Date: 4/15/2021
Agenda Item Number: 6.C
File Number:21-0348

Type: discussion **Version:** 1 **Status:** In Committee

Title

Short Term Rental Regulations

Recommended Action

Committee Recommendation:

Briefing only. No action requested.

City Manager Recommendation:

Briefing only. No action requested.

Report

Issue:

Discussion on the draft staff recommendations for short term rental regulations.

Staff Contact:

Leonard Bauer, Director, Community Planning and Development, 360.753.8206

Catherine McCoy, Associate Planner, Community Planning and Development, 360.570.3776

Presenter(s):

Leonard Bauer, Director, Community Planning and Development,

Catherine McCoy, Associate Planner, Community Planning and Development

Background and Analysis:

Short-term rentals, also known as vacation rentals, exist in Olympia neighborhoods as room rentals or rentals of entire living units, primarily in single family homes and multifamily units. City residents, property owners, and stakeholder groups (such as short-term rental operators) have shared their stories and first-hand experience renting, owning, and living adjacent to short-term rental units.

The Washington State Legislature has adopted some regulations for short term rentals (RCW 64.37). The City of Olympia currently does not have specific regulations addressing short term rentals. In 2019 the Land Use and Environment Committee directed staff to conduct a public process to establish rules that carry out the following six guiding principles:

1. Housing: Establish protections for the supply and affordability of housing.
2. Health and Safety: Identify unwanted behaviors and negative consequences.
3. Neighborhood Integrity: Minimize impacts and tensions between short term rentals and

neighbors.

4. Fees and Taxes: Ensure equitable permit and tax compliance.
5. Enforcement: Enact enforceable policies that improve building, safety, and accessibility requirements.
6. Economic Development: Ensure an equitable approach with existing local firms and providers and their employees, and enable revenue opportunities for existing residents.

A summary of the planning process and staff recommendations for short term rental regulations can be found at the attached link to the short-term rental project web page. The process included a survey, focus group meetings, and several lengthy comment periods regarding the guiding principles, optional approaches, and draft summary of recommendations. These comments and staff research of other jurisdictions and professional literature have guided the staff recommendations.

The staff recommendations begin with a primary definition of short-term rentals further separated into two types:

- Homestays - rental of an individual room within a residence occupied by the owner or a long-term tenant, to be permitted outright as a home-based business incidental to the residential use of the dwelling unit.
- Vacation Rentals - rental of a residential unit where there is no permanent resident, to require administrative review and approval of a land use permit.

Both types of short-term rentals would be required to obtain a city and state business licensing, show proof of primary liability insurance, remit all local and state taxes, post guidelines and emergency information on-site for guests, and have a designated local contact available 24/7 - all of which are also currently required by state law.

Additional regulations in the staff recommendations include:

- Limiting vacation rentals to a total of two (2) per property owner (this does not apply to homestays).
- Limiting short-term rentals to two (2) per parcel that contains a single-family house.
- Limiting guests to two (2) adults per bedroom and no more than ten (10) adults in total.
- For multifamily uses, short-term rentals would be limited to one (1) unit or 3% of the total units, whichever is greater.
- Prohibiting short-term rentals in accessory dwelling units unless they have already been legally established. (A six-month grace period to come into compliance will be provided for existing ADUs that were not legally established.)
- Permitting short-term rentals in all residential and commercial zoning districts (prohibited in Auto Services and Industrial zoning districts).
- Permitting short-term rentals in single-family, duplex, tri-plex, four-plex, townhouse and multi-family units.
- Requiring an additional parking space if renting more than two bedrooms separately in a homestay, and when renting more than two short term rentals on a property.

A more detailed briefing and explanation of the staff recommendations for regulating short-term rentals in Olympia will be provided.

Neighborhood/Community Interests (if known):

Short-term rentals have citywide impact. Staff provided a briefing to the Council of Neighborhood Associations (CNA) several times during the planning process. Short-term rentals have also been raised by community members and neighborhood representatives during the Missing Middle and Housing Options discussions as being closely related to concerns about housing affordability and neighborhood character and quality.

The Planning Commission has scheduled a public hearing on a draft ordinance that would implement these recommendations at its April 19, 2021, meeting.

Options:

1. Receive a briefing and discuss staff recommendations.
2. Do not receive a briefing or discuss staff recommendations.
3. Receive a briefing and discuss staff recommendations at another time.

Financial Impact:

Staff resources in Community Planning and Development have been allocated to this work effort. There may be increased costs to implement and enforce additional programs or regulations, if adopted.

Attachments:

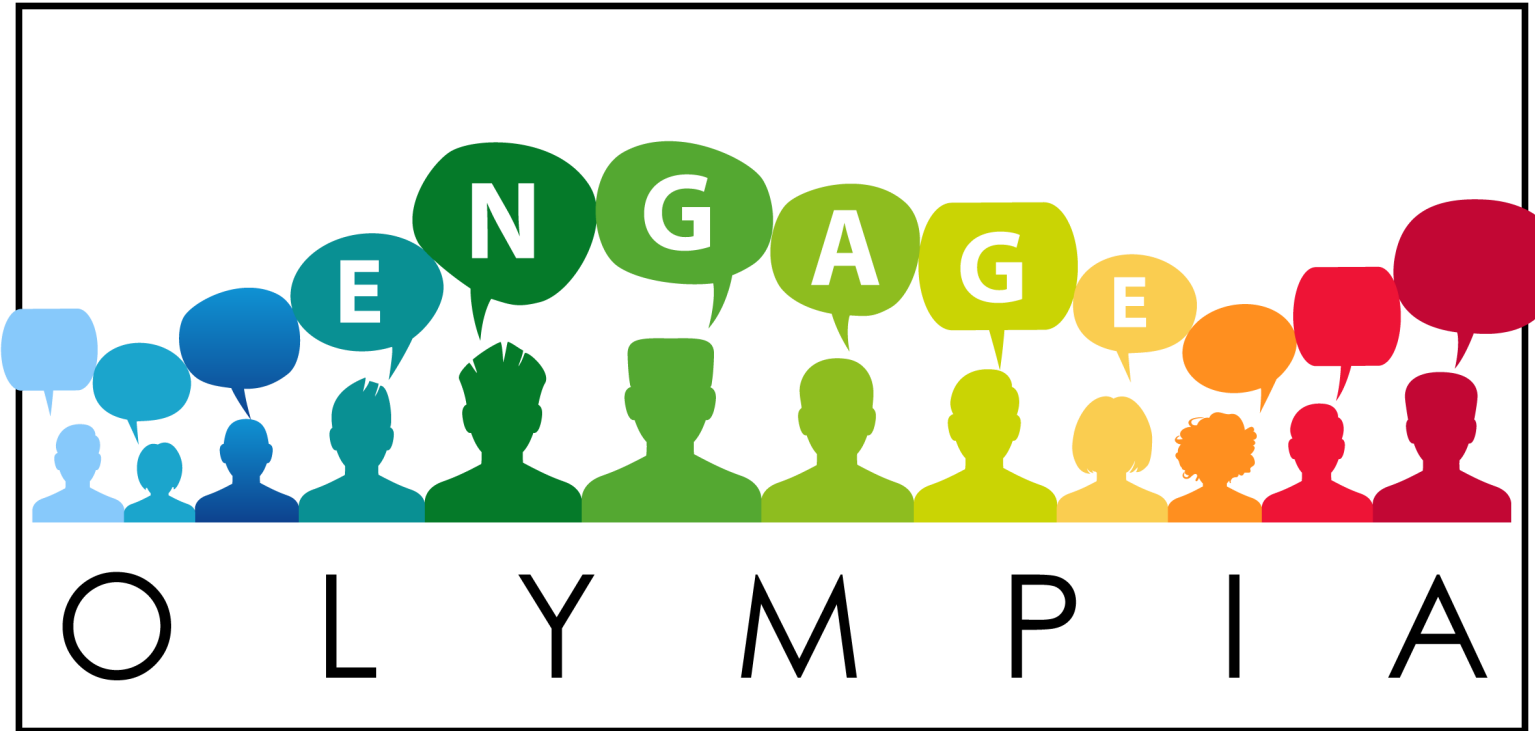
Short Term Rental Project web page



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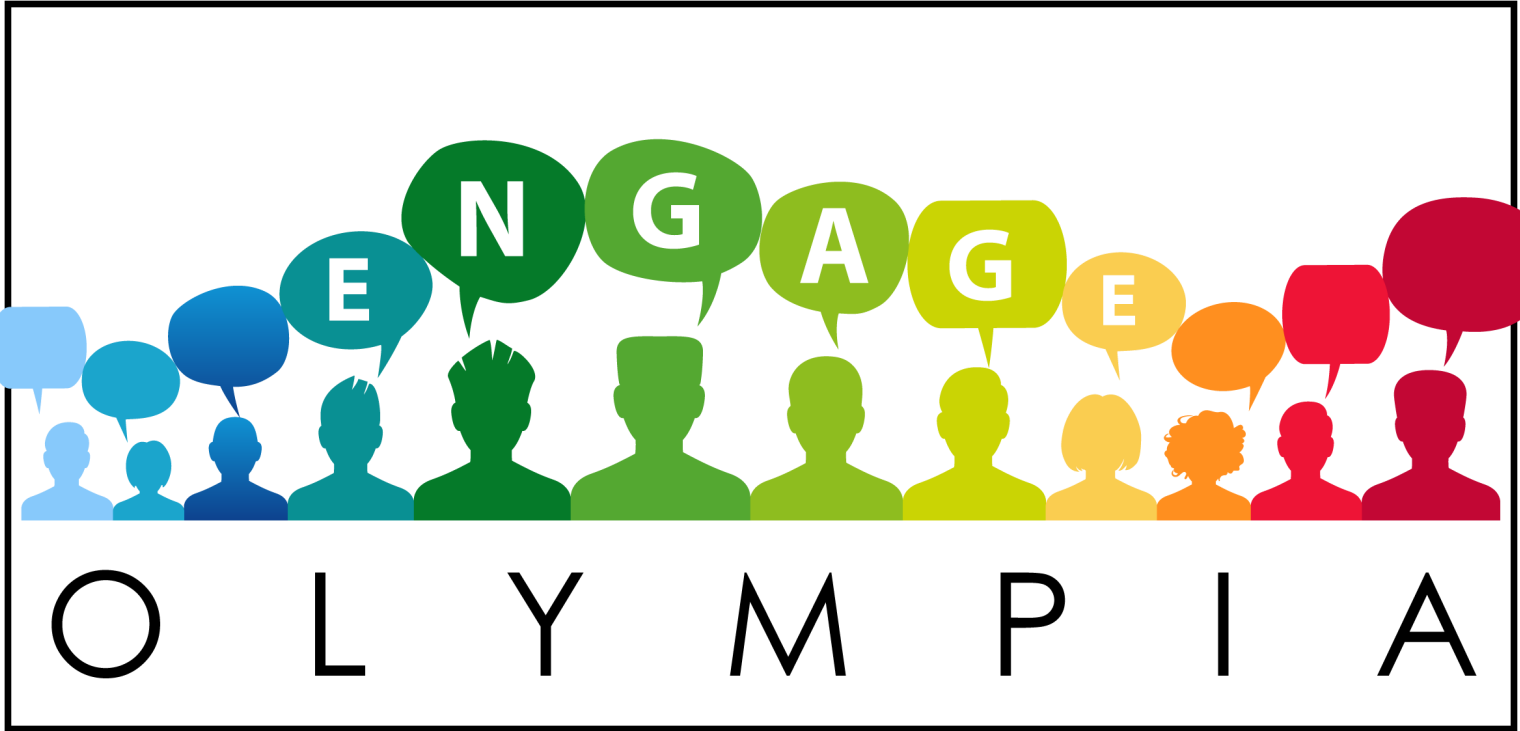
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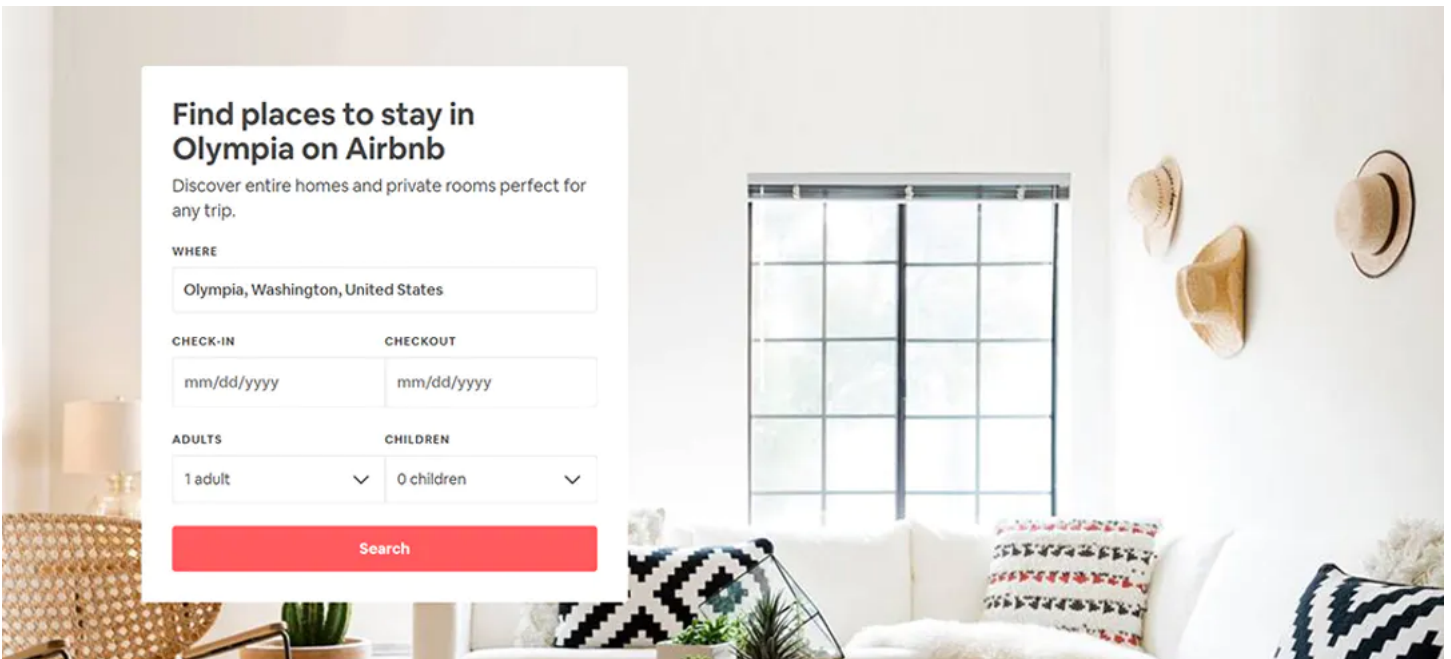
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Short Term Rental Regulations



Update: Planning Commission Public Hearing scheduled for April 19, 2021

Thank you for providing your input, comments, and suggestions related to the City's efforts to develop rules and regulations for short term rentals here in Olympia. Your comments made a difference. Staff recommendations based on your comments are shown in the draft Summary of Short-term regulations below.

The Olympia Planning Commission will have a public hearing on the staff recommendations on April 19, 2021. You are invited to attend and provide your comments to the Commission.

- [Staff Recommendations for Short Term Rental Regulations](#)
- [Read public comments from July 2020 to Sep 2020](#)

Why are we doing this?

Currently, Olympia doesn't have specific regulations addressing short term rentals. City Council has asked staff to take a closer look at these types of rentals to establish equitable and balanced rules for all stakeholders. We will strive to develop a sound process for Olympia that:

- Aligns with Olympia's context and priorities
- Protects public and private interests
- Promotes fairness
- Helps meet our social and economic needs

The following six goals represent the underlying principles guiding our planning progress so far:

1. Housing: Establish protections for the supply and affordability of housing.
2. Health and Safety: Identify unwanted behaviors and negative consequences.
3. Neighborhood Integrity: Minimize impacts and tensions between short term rentals and neighbors.
4. Fees and Taxes: Ensure equitable permit and tax compliance.
5. Enforcement: Enact enforceable policies that improve building, safety, and accessibility requirements.
6. Economic Development: Ensure an equitable approach with existing local firms and providers and their employees, and enable revenue opportunities for existing residents."

How did we get here?

The City received public comment, held community meetings, and conducted research about best practices focused on short term rentals throughout the state and nation. We heard a full range of responses in support and opposed to regulating short term rentals.

[NEWS FEED](#)[COMMENTS](#)[SURVEY](#)

Public comments Jul. 13 to Sep. 29, 2020

26 Feb 2021



- [View public Comments and stories, collected Jul. 13 to Sep. 29, 2020](#)

Public comments Sept, 2019 - Jan. 21, 2020

22 Jan 2020



The City collected initial feedback from the public about Short Term Rentals from Sep. 2019 though Jan. 21, 2020.

- [Read comments and stories we received](#)

Who's listening

Leonard Bauer

Director, CP&D
City of Olympia

Phone 360-753-8206

Email lbauer@ci.olympia.wa.us



Catherine McCoy

Associate Planner
City of Olympia

Phone 360-570-3776

Email cmccoy@ci.olympia.wa.us



Public Meetings

Olympia Planning Commission (OPC) Public Hearing

April 19, 2021

Timeline



Learning: July-Sept. 2019

Research issues that have been faced in other cities. Gather current data on short-term rentals in Olympia.



Develop Guiding Principles: August-Sept. 2019

Based on information gathered, draft a set of principles to guide Olympia's approach to short-term rentals. Seek guidance and reactions from City Council and Advisory Committees and from Olympia citizens to ensure these principles make sense.



Create and Test Actions to Carry Out the Guiding Principles: Sept. 2019-June 2020

Learn from the experience of other cities and additional research to identify specific actions that could carry out the guiding principles. Consult with neighborhoods and other affected groups for feedback on these potential actions. Test the actions most likely to carry out the principles through outreach to the Olympia community.



Public Review and Adoption Process: July 2020-May 2021

Receive formal public comment on the draft proposal for regulating short-term rentals, in writing and at a public hearing. Planning Commission makes recommendation to the City Council, who makes final decision.



Ensure Successful Implementation: May 2021 & Beyond

Provide educational materials to short-term rental operators and web platforms, as well as neighborhood associations. Share information on new programs and requirements on City website and other media. Train City staff on new requirements and establish appropriate procedures for enforcement.

Document Library



[Summary STR Regulations 021721.pdf \(132 KB\) \(pdf\)](#)




[Public Comments and Stories, Jul. 13 - Sep. 29, 2020 \(32.4 KB\) \(xlsx\)](#)





[Survey Results: Draft Approaches to Short Term Rental Regulations \(284 KB\) \(pdf\)](#)





[Public Comments and Stories through Jan. 21, 2020 \(238 KB\) \(pdf\)](#)


-  [DRAFT STR Approaches \(132 KB\) \(pdf\)](#)


-  [House Bill 1978-WA \(75.2 KB\) \(pdf\)](#)


-  [Substitute Senate Bill 5581 \(405 KB\) \(pdf\)](#)


-  [Presentation to Olympia Planning Commission - August 5, 2019 \(1.3 MB\) \(pdf\)](#)

-  [Article: Could You Bnb My Neighbor? \(675 KB\) \(pdf\)](#)

-  [Article: When Tourists Move In - How Should Urban Planners Respond to Airbnb \(2.33 MB\) \(pdf\)](#)

-  [Regulating Short-Term Rentals: A Guidebook for Equitable Policy \(6.22 MB\) \(pdf\)](#)

-  [Study: University of Oregon - Assessing and responding to Short Term Rentals \(1.61 MB\) \(pdf\)](#)

-  [Article: The Sharing Economy and Housing Affordability \(905 KB\) \(pdf\)](#)

Email Updates



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