

SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

THIS CHECKLIST IS FOR USE BY LOCAL GOVERNMENTS TO SATISFY THE REQUIREMENTS OF WAC 173-26-201(3)(A), RELATING TO SUBMITTAL OF SHORELINE MASTER PROGRAMS (SMPS) FOR REVIEW BY THE DEPARTMENT OF ECOLOGY (ECOLOGY) UNDER CHAPTER 173-26 WAC. THE CHECKLIST DOES NOT CREATE NEW OR ADDITIONAL REQUIREMENTS BEYOND THE PROVISIONS OF THAT CHAPTER.

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INSTRUCTIONS

This checklist is intended to help in preparation and review of local shoreline master programs (SMPs). Local governments shall include a completed checklist with all locally-approved SMPs submitted to Ecology for review and approval. See WAC 173-26-201(3)(a).

Information should be provided at the top of the checklist that identifies which local jurisdiction and specific amendment (e.g. comprehensive update, environment re-designation or other topic) the checklist is submitted for, and who prepared it. Please indicate in the location column where in the SMP (or other documents) the requirement is satisfied. If adopting other regulations by reference, identify which specific adopted version of a local ordinance is being used, and attach a copy of the ordinance.

SMP submittals: For draft submittals, local governments may use the checklist’s Comments column to note any questions or concerns about proposed language. Ecology may then use the Comment field to respond as needed (*see example below*).

Ecology has attempted to make this checklist an accurate and concise summary of rule requirements; however, the agency must rely solely on state statutes (RCWs) and rules (WACs) when approving or denying a shoreline program. This checklist does not create new or additional requirements beyond the provisions of state laws and rules. See WAC 173-26-201(3)(a).

EXAMPLE: Use of the Comments column for a draft submittal

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>High-intensity environment designation criteria: Areas within incorporated municipalities, Urban Growth Areas, and “rural areas of more intense development” (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)</p>	<p>Urban Industrial, p. 15 Urban Mixed, p. 18 Also see Appendix B, Use Analysis, Chapter 3, p. 12.</p>	<p>Local government: SMP includes two urban designations that meet high intensity criteria (Urban Industrial, Urban Mixed). These alternative designations allow more specificity for public access, view and amenity requirements for the mixed use areas.</p> <p style="text-align: center;"><i>[Ecology example]</i></p> <p>Non-Compliant: <i>The City...</i></p> <p>Required or Recommended Change: <i>The SMP-Guidelines....</i></p>

<p>Acronyms and abbreviations</p> <p>comp plan: Comprehensive Plan CUP: Conditional Use Permit SMA: Shoreline Management Act, RCW 90.58 SMP: Shoreline Master Program SSWS: Shorelines of Statewide Significance WAC: Washington Administrative Code</p>	<p>For more information</p> <p>SMA (Ch. 90.58 RCW): http://apps.leg.wa.gov/rcw/default.aspx?cite=90.58</p> <p>Guidelines (Ch. 173-26, Part III WAC): http://apps.leg.wa.gov/wac/default.aspx?cite=173-26</p> <p>Ecology’s Shoreline Planners Toolbox: www.ecy.wa.gov/programs/sea/shorelines/smp/toolbox.html</p> <p>Ecology SMA Policy Lead: Peter Skowlund: (360) 407-6522</p>
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SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

Prepared for:	City of Olympia
Name of Amendment:	Comprehensive Amendment - Planning Commission Recommendation draft, dated June 12, 2012
Prepared by:	Chrissy Bailey
Date:	September 2012

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
DOCUMENTATION OF SMP DEVELOPMENT PROCESS		
PUBLIC INVOLVEMENT, COMMUNICATION, AND COORDINATION		
Documentation of public involvement throughout SMP development process. WAC 173-26-201(3)(b)(i) and WAC 173-26-090 and 100. For SSWS, see WAC 173-26-251(3)(a).		<i>To be evaluated at final submittal</i>
Documentation of communication with state agencies and affected Indian tribes throughout SMP development. WAC 173-26-201(3)(b)(ii) and (iii), WAC 173-26-100(3). For saltwater shorelines, see WAC 173-26-221(2)(c)(iii)(B). For SSWS, see WAC 173-26-251(3)(a).		<i>To be evaluated at final submittal</i>
Demonstration that critical areas regulations for shorelines are based on the SMA and the guidelines, and assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. WAC 173-26-221(2)(b)(ii),(iii) and (c). EHB 1653.		<i>Section 1.7 on page 4 adopts the CAO by reference with two exclusions; however, it is likely additional detail will be necessary.</i>
Documentation of process to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights . See "State of Washington, Attorney General's Recommended Process for Evaluation of Proposed		<i>Section 1.2 (D), page 2. The City has also allowed for variances in cases where strict application of the SMP may result in infringement on property rights. The City's Attorney will also assumedly review the SMP and its administrative provisions for this purpose.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p><i>Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property.</i>" WAC 173-26-186(5).</p>		
<p>Final submittal includes:</p> <ul style="list-style-type: none"> Evidence of local government approval (or a locally approved "statement of intent to adopt"); New and/or amendatory text, environment designation maps (with boundary descriptions and justification for changes based on existing development patterns, biophysical capabilities and limitations, and the goals and aspirations of the local citizenry); A summary of the proposal together with staff reports and supporting materials; Evidence of SEPA compliance; Copies of all comments received and a record of names and addresses of interested parties involved in local processes. WAC 173-26-110. <p>Submittal must include clear identification and transmittal of all provisions that make up the SMP. <i>This checklist, if complete, meets this requirement.</i> WAC 173-26-210(3)(a) and (h).</p>		<p><i>To be evaluated at final submittal</i></p>
SHORELINE INVENTORY		
<p>Inventory of existing data and materials. WAC 173-26-201(3)(c)(i) through (x).</p> <p>Inventory of all "shorelines of the state": Include lists and map(s) of all SMA marine, riverine, and lacustrine water bodies, including "shorelands", "floodways", and "floodplains". RCW 90.58.030(2) & WAC's 173-18-044, 173-20-044, 173-22-050, 173-26-211(b, c, d).</p> <p>For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(A)&(B).</p>		<p><i>Submitted previously</i></p>
SHORELINE ANALYSIS		
<p>Characterization of shoreline ecosystems and their associated ecological functions that:</p>		<p><i>Submitted previously</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Identifies ecosystem-wide processes and ecological functions; Assesses ecosystem-wide processes to determine their relationship to ecological functions; Identifies specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes. WAC 173-26-201(3)(d)(i)(A).</p> <p>Demonstration of how characterization was used to prepare master program policies and regulations that achieve no net loss of ecological functions necessary to support shoreline resources and to plan for restoration of impaired functions. WAC 173-26-201(3)(d)(i)(E).</p> <p>For vegetation, see WAC 173-26-221(5). For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(B).</p> <p>Description of data gaps, assumptions made and risks to ecological functions associated with SMP provisions. WAC 173-26-201(2)(a).</p> <p>Characterization includes maps of inventory information at appropriate scale. WAC 173-26-201(3)(c).</p>		
<p>Use analysis estimating future demand for shoreline space and potential use conflicts based on characterization of current shoreline use patterns and projected trends. Evidence that SMP ensures adequate shoreline space for projected shoreline preferred uses. Public access needs and opportunities within the jurisdiction are identified. Projections of regional economic need guide the designation of "high intensity" shoreline. WAC 173-26-201(3)(d)(ii) & (v); WAC 173-26-211(5)(d)(ii)(B)</p> <p>For SMPs that allow mining, demonstration that siting of mines is consistent with requirements of WAC 173-26-241(3)(h)(i).</p> <p><u>For shorelines of the state:</u></p> <p>Evidence the SMP preserves adequate shorelands and submerged lands to accommodate current and projected demand for economic resources of</p>		<p><i>Was not a separate deliverable per the grant agreement when the cities began this process through TRPC. The City should work with WA DNR to ensure consistency with WA state harbor area statutes and regulations.</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>statewide importance (e.g., commercial shellfish beds and navigable harbors) based on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies. <u>RCW 90.58.100</u>. Evidence that public access and recreation requirements are based on demand projections that take into account activities of state agencies and interests of the citizens to visit public shorelines with special scenic qualities or cultural or recreational opportunities. WAC 173-26-251(3)(c)(ii) & (iii).</p> <p><u>For shorelines of statewide significance:</u></p> <p>Optimum implementation directives incorporated into comp plan and development regulations. <u>RCW 90.58.100</u>. For GMA jurisdictions, SMP recreational provisions are consistent with growth projections and level-of-service standards contained in comp plan. WAC 173-26-241(3)(i).</p>		
<p>Restoration plan that:</p> <ul style="list-style-type: none"> Identifies degraded areas, impaired ecological functions, and potential restoration sites; Establishes restoration goals and priorities, including SMP goals and policies that provide for restoration of impaired ecological functions; Identifies existing restoration projects and programs; Identifies additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources; Sets timelines and benchmarks for implementing restoration projects and programs; Provides mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals. WAC 173-26-186(8)(c); 201(2)(c)&(f). 		<p><i>To be evaluated at final submittal - restoration plan in appendix A to the SMP.</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>For critical freshwater habitats: incentives to restore water connections impeded by previous development. WAC 173-26-221(2)(c)(iv)(C)(III).</p> <p>For SSWS, identification of where natural resources of statewide importance are being diminished over time, and master programs provisions that contribute to the restoration of those resources. WAC 173-26-251(3)(b).</p>		
<p>Evidence that each environment designation is consistent with guidelines criteria [WAC 173-26-211(5)], as well as existing use pattern, the biological and physical character of the shoreline and the goals and aspirations of the community. WAC 173-26-211(2)(a). WAC 173-26-110(3).</p> <p>Lands designated as “forest lands of long-term significance” under RCW 36.70A.170 are designated either natural or rural conservancy shoreline environment designations. WAC 173-26-241(3)(e).</p> <p>For SSWS, demonstration that environment designation policies, boundaries, and use provisions implement SMA preferred use policies of RCW 90.58.020(1) through (7). WAC 173-26-251(3)(c)</p>		<p><i>See below for specific comments - concerns with PC proposed shoreline environment designations (SEDs) were also outlined in a letter from DOE dated 05/26/2011.</i></p> <p><i>The only SSWS in Olympia is Budd Inlet, and it doesn't include shorelands or tidelands. The SSWS includes only areas seaward of the extreme low tide line. This requires consideration of the elements listed to the left in the policies and use provisions associated with the Aquatic SED. Reference is made in the governing principles on page 1 of the SMP, section 1.2 (A).</i></p>
<p>Assessment of how proposed policies and regulations cause, avoid, minimize and mitigate cumulative impacts to achieve no net loss. Include policies and regulations that address platting or subdividing of property, laying of utilities, and mapping of streets that establish a pattern for future development. Evaluation addresses:</p> <p>(i) <i>current circumstances</i> affecting the shorelines and relevant natural processes;</p> <p>(ii) <i>reasonably foreseeable future development</i> and use of the shoreline (including impacts from unregulated activities, exempt development, and other incremental impacts); and</p> <p>(iii) <i>beneficial effects</i> of any established regulatory programs under other local, state, and federal laws. WAC 173-26-201(3)(d)(iii) and WAC 173-26-186(8)(d).</p> <p>For jurisdictions with critical saltwater habitats, identification of methods for monitoring conditions and</p>		<p><i>CIA will be evaluated upon creation of a final draft SMP.</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>adapting management practices to new information. WAC 173-26-221(2)(c)(iii)(B).</p> <p>For SSWS, evidence that standards ensuring protection of ecological resources of statewide importance consider cumulative impacts of permitted development. WAC 173-26-251(3)(d)(i).</p>		
SMP CONTENTS		
<p>Any goals adopted as part of the SMP are consistent with the SMA. <i>(Note: Goal statements are not required.)</i></p>		<p><i>Goals are not included in this draft; however it is my understanding City staff supports future development of goals. Due to the fact that the policies from the SMP will become a section of the City's comprehensive plan, the articulation of goals associated with these policies will be necessary.</i></p>
<p>Policies (A) are consistent with guidelines and policies of the SMA; (B) address elements of RCW 90.58.100; (C) include policies for environment designations, accompanied by a map or physical description of designation boundaries in sufficient detail to compare with comprehensive plan land use designations; and (D) are consistent with constitutional and other legal limitations on regulation of private property. WAC 173-26-191(2)(a)(i).</p> <p>SMP implements preferred use policies of the SMA. WAC 173-26-201(2)(d).</p>		<p><i>Policies contained in the draft SMP appear to be consistent with the Guidelines and policies of the SMA and address the elements outlined in RCW 90.58.100(2).</i></p> <p><i>The SMP also contains management policies associated with each environment designation and is accompanied by a map (figure 4.1). TRPC originally created a matrix containing GPS points for use in documenting the endpoints of each reach. The City should consider revising this document to correspond to final reach breaks and associated environment designations before final submittal if it intends to use the matrix.</i></p> <p><i>See comments above regarding constitutional and legal limitations.</i></p> <p><i>The SMP appears to implement the preferred use guidelines in WAC 173-26-201 (2) (d). Areas that are relatively ecologically intact or adjoin permanently protected uplands have been assigned the natural shoreline environment designation. The second preference is reservation of shoreline areas for water dependent and associated water related use; although I am not aware of any documentation the City has created or consulted to determine that adequate shoreline area is reserved for future water dependent and water related uses, the use matrices in tables 6.1-6.12 do reflect a general preference for water dependent and water related activities when compared to non-water oriented uses and development,</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
		<p>where appropriate.</p> <p>The third preference is for water related and water enjoyment uses that are compatible with ecological protection and restoration objectives. As outlined above, these types of uses are generally preferred over non--water oriented activities where appropriate. Additionally, incentives for providing opportunities for public access and restoration with non-water oriented development may result in creation of more water enjoyment uses/activities as elements of mixed use structures where such was not originally proposed.</p> <p>Single family uses are permitted where appropriate and where they can be developed without significant impact to ecological functions or displacing water dependent uses.</p> <p>Non-water oriented uses are generally limited to locations where the above described uses are inappropriate or, as referenced above, where they contribute to the objectives of the shoreline management act.</p>
<p>Regulations: (A) are sufficient in scope and detail to ensure the implementation of the SMA, SMP guidelines, and SMP policies; (B) include environment designation regulations; (C) include general regulations, use regulations that address issues of concern in regard to specific uses, and shoreline modification regulations; and, (D) are consistent with constitutional and other legal limitations on the regulation of private property. WAC 173-26-191(2)(a)(ii).</p>		<p>Generally, the regulations are sufficient to implement policies of the SMA, SMP guidelines, and the SMP itself. Locations throughout the document where provisions were unclear, in conflict, or insufficient have been noted.</p> <p>Environment designation-specific regulations have been included in the SMP, generally in the form of use and modification matrices. The SMP also includes general regulations, use- and modification-specific regulations, and allowances for conditional uses and variances to address issues of constitutionality.</p>
<p>Height Limitation: SMP prohibits buildings and structures >35 feet in height obstructing views of residences, with exceptions. RCW 90.58.320.</p>		<p>Building height and view obstruction portions of the SMP remain unfinished. Appropriate policies and regulations need to be included in the final SMP.</p>
<p>ENVIRONMENT DESIGNATIONS</p>		
<p>Each environment designation includes: Purpose statements, classification criteria, management policies, and regulations (types of shoreline uses permitted, conditionally permitted, and prohibited; building or structure height and bulk limits, setbacks, maximum</p>		<p>Shoreline environment designations (SEDs) are discussed in section 4.3 of the SMP. Each designation includes a purpose statement, designation criteria, management policies, and regulations.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
density or minimum frontage requirements, and site development standards). WAC 173-26-211(2)(4).		
An up-to-date map accurately depicting environment designation boundaries. If necessary, include common boundary descriptions. WAC 173-26-211(2)(b); WAC 173-26-110(3).		<i>Figure 4.1 depicts the proposed environment designation boundaries. I have one clarifying question regarding the break point between reaches BUDD 5A and BUDD 5B. On the map, it looks like reach BUDD 5A ends where Market Street extended/Corky Avenue intersects with the shoreline. This leaves the port plaza and adjacent commercial/office/restaurant buildings in reach BUDD 5B - Port Industrial. According to the designation criteria for the Port Industrial SED, this designation coincides with the Ocean Terminal and Admiral districts of the Port, which do not include these properties. Please review and clarify if this is a mapping error.</i>
Statement that undesigned shorelines are automatically assigned a conservancy environment designation. WAC 173-26-211(2)(e).		<i>Regulation B in section 4.3 on page 30.</i>
NATURAL ENVIRONMENT WAC 173-26-211(5)(a)		
Designation criteria: Shorelines that are ecologically intact and performing functions that could be damaged by human activity, are of particular scientific or educational interest, or are unable to support human development without posing a safety threat. WAC 173-26-211(5)(a)(iii).		<i>Item B in section 4.3.2 on page 31</i>
Prohibition on new: <ul style="list-style-type: none"> Uses that would substantially degrade ecological functions or natural character of shoreline. WAC 173-26-211(5)(a)(ii)(A). Commercial uses; industrial uses; nonwater oriented recreation; roads, utility corridors, and parking areas. WAC 173-26-211(5)(a)(ii)(B). Development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions. WAC 173-26-211(5)(a)(ii)(G). Subdivision of property in a configuration that will require significant vegetation removal or shoreline modification that adversely impacts 		<i>Note that both item C in section 4.3.2 on page 31 and table 6.9 suggest that Priest Point Park is the only naturally designated shoreline within the City; however, figure 4.1 also depicts shorelands along Bigelow Lake within the City as being designated natural.</i> <i>The management policies in section 4.3.2 read that uses and modifications that would degrade ecological functions should not be allowed. In fact, uses have been highly restricted and currently only water oriented recreational uses and associated appurtenances are proposed to be permitted.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
ecological functions. WAC 173-26-211(5)(a)(ii)(G).		
For single family residential development : limits on density and intensity to protect ecological functions, and requirement for CUP. WAC 173-26-211(5)(a)(ii)(C).		<i>As currently proposed, single family residential development is not permitted in the natural designation.</i>
For commercial forestry : requirement for CUP, requirement to follow conditions of the State Forest Practices Act. WAC 173-26-211(5)(a)(ii)(D).		<i>Forest practices and commercial forestry do not appear to have been addressed in the SMP.</i>
For agriculture : low intensity use allowed if subject to appropriate limits or conditions to assure that the use does not expand or practices don't conflict with purpose of the designation. WAC 173-26-211(5)(a)(ii)(E).		<i>As currently proposed, new agriculture is not permitted in the natural designation.</i>
Low intensity public uses such as scientific, historical, cultural, educational research uses, and water-oriented recreational access allowed if ecological impacts are avoided. WAC 173-26-211(5)(a)(ii)(F).		<i>Low intensity public uses, specifically water oriented recreation, is permitted in this designation with employment of the mitigation sequence.</i>
RURAL CONSERVANCY ENVIRONMENT WAC 173-26-211(5)(b)		
Designation criteria : areas outside municipalities or UGAs with: (A) low-intensity, resource-based uses, (B) low-intensity residential uses, (C) environmental limitations such as steep banks or floodplains, (D) high recreational or cultural value, or (E) low-intensity water-dependent uses. WAC 173-26-211(5)(b)(iii).		<i>Not applicable</i>
Restrictions on use and development that would degrade or permanently deplete resources . Water dependent and water enjoyment recreation facilities are preferred uses. Low intensity, water-oriented commercial and industrial uses limited to areas where those uses have located in the past or at sites that possess conditions and services to support the development. WAC 173-26-211(5)(b)(ii)(A) and (B). For SMPs that allow mining, see WAC 173-26-241(3)(h).		
Prohibition on new structural shoreline stabilization and flood control works except where there is documented		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
need to protect an existing primary structure (provided mitigation is applied) or to protect ecological functions. WAC 173-26-211(5)(b)(ii)(C).		
<p>Development standards for residential use that preserve existing character of the shoreline. Density, lot coverage, vegetation conservation and other provisions that ensure no net loss of shoreline ecological functions.</p> <p>Density or lot coverage limited to a maximum of ten percent total impervious surface area within the lot or parcel, or alternative standard that maintains the existing hydrologic character of the shoreline. (May include provisions allowing greater lot coverage for lots legally created prior to the adoption of a master program prepared under these guidelines, if lot coverage is minimized and vegetation is conserved.) WAC 173-26-211(5)(b)(ii)(D).</p>		
AQUATIC ENVIRONMENT WAC 173-26-211(5)(c)		
Designation criteria: Areas waterward of the ordinary high-water mark (OHWM). WAC 173-26-211(5)(c)(iii).		<i>Item B in section 4.3.1 on page 30.</i>
<p>New over-water structures:</p> <p>Allowed only for water-dependent uses, public access, or ecological restoration. WAC 173-26-211(5)(c)(ii)(A).</p> <p>Limited to the minimum necessary to support the structure's intended use. WAC 173-26-211(5)(c)(ii)(B).</p>		<i>Items C 2 and 3 in section 4.3.1 on page 31.</i>
Multiple use of over-water facilities encouraged. WAC 173-26-211(5)(c)(ii)(C).		<i>Reference is made to cooperative use of service facilities in the industrial use section, but I was unable to find specific reference to this Guidelines standard.</i>
<p>Location and design of all developments and uses required to:</p> <p>Minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on</p>		<i>This does not appear to have been included in the aquatic management policies. Is it addressed elsewhere in the SMP?</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>migration. WAC 173-26-211(5)(c)(ii)(D). Prevent water quality degradation and alteration of natural hydrographic conditions. WAC 173-26-211(5)(c)(ii)(F).</p>		
<p>Uses that adversely impact ecological functions of critical saltwater and freshwater habitats limited (except where necessary for other SMA objectives, and then only when their impacts are mitigated). WAC 173-26-211(5)(c)(ii)(E).</p>		<p><i>Critical saltwater and freshwater habitat needs additional focus in the SMP. Boating facilities and breakwaters/jetties/groins/weirs are the only uses with an express prohibition where CSH may be impacted. CFH does not appear to have been addressed although this term is essentially interchangeable with CAO fish and wildlife habitat conservation areas. We will review that section of the CAO against guidelines standards for critical freshwater (and saltwater) habitat.</i></p>
<p>HIGH INTENSITY ENVIRONMENT WAC 173-26-211(5)(d) (“URBAN” INTENSITY)</p>		
<p>Designation criteria: Areas within incorporated municipalities, “UGAs,” and “rural areas of more intense development” (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii).</p>		<p><i>Item B in section 4.3.5 on page 34. The City has expanded the designation criteria to include areas that support high intensity uses related to commerce, industry, transportation or navigation, and high density housing. A separate SED was created to accommodate high intensity water oriented marine commerce at the Port (Port Industrial). There is a lot of overlap between the purpose statements for these two designations, which the City may wish to revisit and expand on. In addition, it is not immediately clear how some reaches given the UI designation meet these criteria, for example reach BUDD 6A.</i></p>
<p>Priority given first to water dependent uses, then to water-related and water-enjoyment uses. New non-water oriented uses prohibited except as part of mixed use developments, or where they do not conflict with or limit opportunities for water oriented uses or where there is no direct access to the shoreline. WAC 173-26-211(5)(d)(ii)(A).</p>		<p><i>A wide range of urban uses and activities are desired in this SED, according to the management policies in the SMP. A preference for water oriented uses and activities is stated. Water oriented commercial, industrial and recreational activities are given preference in the permitting process outlined in table 6.1 for this SED. The Port Industrial SED reflects a preference for water dependent uses then water oriented uses in table 6.2 and in section 4.3.6 of the SMP.</i></p>
<p>Full use of existing urban areas required before expansion of intensive development allowed. WAC 173-26-211(5)(d)(ii)(B).</p>		<p><i>This management policy does not appear in the SMP. However the City is proposing to utilize this designation somewhat differently than it is presented in the Guidelines, which is permissible. The most intense development is currently designated with the Port</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
		<i>Industrial designation, which is limited to two discreet planning areas as identified in the Port's 2011 Comprehensive Scheme of Harbor Improvements.</i>
<p>New development does not cause net loss of shoreline ecological functions. Environmental cleanup and restoration of the shoreline to comply with relevant state and federal laws assured. WAC 173-26-211(5)(d)(ii)(C).</p>		<i>Management policy C2 in section 4.3.5 and management policies C 5 and 6 in section 4.3.6 of the SMP.</i>
<p>Visual and physical public access required where feasible. Sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers to achieve aesthetic objectives. WAC 173-26-211(5)(d)(ii)(D) and (E).</p>		<i>Management policy C3 in section 4.3.5 in the SMP.</i>
<p>URBAN CONSERVANCY ENVIRONMENT WAC 173-26-211(5)(e)</p>		
<p>Designation criteria: Areas within incorporated municipalities, UGAs, and "rural areas of more intense development" not suitable for water-dependent uses but suitable for water-related or water-enjoyment uses, are flood plains or other sensitive lands, have potential for ecological restoration, retain important ecological functions, or have potential for development that incorporates ecological restoration. WAC 173-26-211(5)(e)(iii).</p>		<p><i>Items B1-6 in section 4.3.3. The City has also added an additional criterion for the urban conservancy SED - lands that are used or planned for recreation.</i></p> <p><i>As has been previously stated, Ecology has concerns with the consistent application of this environment designation throughout the City's shoreline areas. Suggest revisiting a number of areas, particularly around Budd Inlet, to evaluate the existing use pattern, biological and physical character of the shoreline, and goals for the areas as expressed in the Comp Plan, and whether this is the most appropriate designation.</i></p>
<p>Allowed uses are primarily those that preserve natural character of area, promote preservation of open space, floodplain or sensitive lands, or are appropriate for restoration. WAC 173-26-211(5)(e)(ii)(A).</p> <p>Priority given to water oriented uses over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water dependent uses given highest priority. WAC 173-26-211(5)(e)(ii)(D).</p> <p>For SMPs that allow mining, see WAC 173-26-241(3)(h).</p>		<p><i>The City has incorporated the management policies from the Guidelines into section 4.3.3 (C) of the SMP. However, there appears to be an inconsistency with the designation criteria. The designation criteria state that this SED should be applied to lands that are not generally suited for water dependent uses. Two of the City's management policies, the purpose of which are to assist in the interpretation of the environment designation regulations and evaluate consistency with the Comprehensive Plan, state that water dependent uses should be given priority. Consider clarifying intentions in this section.</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications that ensure new development does not result in a net loss of shoreline ecological functions or degrade other shoreline values. WAC 173-26-211(5)(e)(ii)(B).</p>		<p><i>These standards exist throughout the SMP in various sections, including sections applicable to specific shoreline uses, shoreline modifications, use and development standard tables and the general policies and regulations section.</i></p>
<p>Public access and recreation required where feasible and ecological impacts are mitigated. WAC 173-26-211(5)(e)(ii)(C).</p>		<p><i>Management policy 4 in section 4.3.3 C on page 32.</i></p>
<p>SHORELINE RESIDENTIAL ENVIRONMENT WAC 173-26-211(5)(f)</p>		
<p>Designation criteria: Areas within incorporated municipalities, UGAs, “rural areas of more intense development”, and “master planned resorts” (see RCW 36.70A.360) that are predominantly residential development or planned and platted for residential development. WAC 173-26-211(5)(f)(iii).</p>		<p><i>Item B in section 4.3.4 on page 33.</i></p>
<p>Standards for density or minimum frontage width, setbacks, buffers, shoreline stabilization, critical areas protection, and water quality protection assure no net loss of ecological function. WAC 173-26-211(5)(f)(ii)(A).</p>		<p><i>These standards exist throughout the SMP in various sections, including sections applicable to specific shoreline uses, shoreline modifications, use and development standard tables and the general policies and regulations section.</i></p>
<p>Multifamily and multi-lot residential and recreational developments provide public access and joint use for community recreational facilities. WAC 173-26-211(5)(f)(ii)(B).</p>		<p><i>Item C2 in section 4.3.4 on page 33. See also regulation E in section 6.10.2 on page 94.</i></p>
<p>Access, utilities, and public services required to be available and adequate to serve existing needs and/or planned future development. WAC 173-26-211(5)(f)(ii)(C).</p>		<p><i>Did not locate this provision in the SMP.</i></p>
<p>Commercial development limited to water oriented uses. WAC 173-26-211(5)(f)(ii)(D).</p>		<p><i>Item C4 in section 4.3.4 on page 33. However there is a conflict in table 6.3, which indicates that non-water oriented commercial development can be conditionally authorized in this environment designation.</i></p>
<p>GENERAL POLICIES AND REGULATIONS</p>		
<p>Moratoria. Under the authority of RCW 90.58.590, local governments may adopt moratoria or other interim</p>	<p>These controls may be extended twice. <i>These official controls are not adopted as part of a shoreline master</i></p>	<p>Public hearings, notice to Ecology, and other requirements are set forth in RCW 90.58.590.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
official controls lasting up to six months. →	<i>program.</i> →	
ARCHAEOLOGICAL AND HISTORICAL RESOURCES WAC 173-26-221(1)		
Developers and property owners required to stop work and notify the local government, state office of archaeology and historic preservation, and affected Indian tribes if archaeological resources are uncovered during excavation. WAC 173-26-221(1)(c)(i).		<i>Regulation C1 in section 5.2.2</i>
Permits issued in areas documented to contain archaeological resources require site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. WAC 173-26-221(1)(c)(ii).		<i>Regulation C2 in section 5.2.2; it would be useful to state at what point the site inspection/evaluation has to be completed i.e., prior to permit issuance? At time of permit application? Etc.</i>
CRITICAL AREAS WAC 173-26-221(2) - REFER TO SEPTEMBER 2011 COMMENTS		
<p>Policies and regulations for critical areas (designated under GMA) located within shorelines of the state that</p> <ul style="list-style-type: none"> • Are consistent with SMP guidelines • Provide a level of protection equal to critical areas within shorelines that satisfy the no net loss of ecological functions requirement, as provided by the local government’s existing critical area regulations adopted pursuant to the GMA for comparable areas other than shorelines. WAC 173-26-221(2)(a) and (c). <p>Planning objectives are for protection <i>and restoration</i> of degraded ecological functions and ecosystem-wide processes. Regulatory provisions <i>protect</i> existing ecological functions and ecosystem-wide processes. WAC 173-26-221(2)(b)(iv).</p> <p>Critical area provisions promote human uses and values, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions. WAC 173-26-221(2)(b)(v).</p>		
If SMP includes optional expansion of jurisdiction: Clear description of the inclusion of any land necessary for buffers of critical areas that occur within shorelines of the		<i>It is assumed the City does not intend to invoke optional jurisdiction and include critical area buffers in shoreline jurisdiction. We would prefer a statement to this effect in</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
state, accurately depicting new SMP jurisdiction consistent with RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a).		section 4.2 B.
WETLANDS WAC 173-26-221(2)(c)(i)		
Wetlands definition is consistent with WAC 173-22.		
Provisions requiring wetlands delineation method are consistent with WAC 173-22-035.		
Regulations address all uses and activities listed in WAC 173-26-221(2)(c)(i)(A) to achieve no net loss of wetland area and functions, including lost time when the restoration does not perform the functions. WAC 173-26-221(2)(c)(i)(A) + (C).		
Wetlands rating or categorization system is based on rarity, irreplaceability, and/or sensitivity to disturbance of a wetland and the functions the wetland provides. Use Ecology Rating System or regionally specific, scientifically based method. WAC 173-26-221(2)(c)(i)(B)]		
Wetland Buffer requirements are adequate to ensure wetland functions are protected and maintained in the long-term, taking into account ecological functions of the wetland, characteristics of the buffer, and potential impacts associated with adjacent land uses. WAC 173-26-221(2)(c)(i)(B). Wetland buffer widths assume a naturally vegetated state; wider buffers or a revegetation plan may be needed if buffer is unvegetated or sparsely vegetated.		
Wetland mitigation requirements are consistent with WAC 173-26-201(2)(e) and are based on the wetland rating or other scientifically valid means demonstrating replacement of all functions lost (hydrologic, habitat, and water quality). WAC 173-26-221(2)(c)(i)(E) and (F).		
Compensatory mitigation allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Compensatory mitigation requirements include (I) replacement ratios; (II) Performance standards for evaluating success; (III) long-term monitoring and reporting procedures; and (IV) long-term protection and management of compensatory mitigation sites. WAC 173-26-221(2)(c)(i)(F).</p> <p>Compensatory mitigation requirements are consistent with preference for “in-kind and nearby” replacement, and include requirement for watershed plan if off-site mitigation is proposed. WAC 173-173-26-201(2)(e)(B).</p>		
GEOLOGICALLY HAZARDOUS AREAS WAC 173-26-221(2)(c)(ii)		
<p>Prohibition of new development and creation of new lots that would:</p> <p>Cause foreseeable risk from geological conditions during the life of the development. WAC 173-26-221(2)(c)(ii)(B);</p> <p>Require structural shoreline stabilization over the life of the development. (Exceptions allowed where stabilization needed to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.) WAC 173-26-221(2)(c)(ii)(C).</p>		
<p>New stabilization structures for existing primary residential structures allowed only where no alternatives (including relocation or reconstruction of existing structures), are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result. WAC 173-26-221(2)(c)(ii)(D).</p>		
CRITICAL SALTWATER HABITATS WAC 173-26-221(2)(c)(iii)		
<p>Prohibit new docks, bulkheads, bridges, fill, floats, jetties, utility crossings and other structures in or over critical saltwater habitats, except where:</p> <p>Public need is clearly demonstrated; Avoidance of impacts is not feasible or would result</p>		<p><i>Needs to be addressed</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>in unreasonable cost; The project include appropriate mitigation; and The project is consistent with resource protection and species recovery. Private, non-commercial docks for individual residential or community use allowed if it is infeasible to avoid impacts by alternative alignment or location and the project results in no net loss of ecological functions. WAC 173-26-221(2)(c)(iii)(C).</p>		
<p>Where inventory of critical saltwater habitat has not been done, all over water and near-shore developments in marine and estuarine waters require habitat assessment of site and adjacent beach sections. WAC 173-26-221(2)(c)(iii)(C)</p>		
<p>CRITICAL FRESHWATER HABITATS WAC 173-26-221(2)(c)(iv)</p>		
<p>Requirements that ensure new development within stream channel, channel migration zone, wetlands, floodplain, hyporheic zone, does not cause a net loss of ecological functions. WAC 173-26-221(2)(c)(iv)(C)(I) and WAC 173-26-221(2)(c)(iv)(B)(II).</p>		<p><i>Overlap with CAO (FWHCA)</i></p>
<p>Authorization of appropriate restoration projects is facilitated. WAC 173-26-221(2)(c)(iv)(C)(III).</p>		
<p>Regulations protect hydrologic connections between water bodies, water courses, and associated wetlands. WAC 173-26-221(2)(c)(iv)(C)(IV).</p>		
<p>FLOOD HAZARD REDUCTION WAC 173-26-221(3)</p>		
<p>New development within the channel migration zone or floodway limited to uses and activities listed in WAC 173-26-221(3)(b) and (3)(c)(i).</p>		
<p>New structural flood hazard reduction measures allowed only: Where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished;</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis. WAC 173-26-221(3)(c)(ii) & (iii).		
New publicly funded dikes or levees required to dedicate and improve public access (see exceptions). WAC 173-26-221(3)(c)(iv).		
Removal of gravel for flood control allowed only if biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution. WAC 173-26-221(3)(c)(v).		
PUBLIC ACCESS WAC 173-26-221(4)		
Applicability: Public access includes 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 the shoreline from adjacent locations. WAC 173-26-221(4)(d)(i). For S of SWS the SMP should identify and evaluate all publicly owned shoreline parcels and their suitability for public access.		<p><i>Definition on page 14</i></p> <p><i>May want to clarify if these apply only to land that fronts on the shoreline (vs. land within shoreline jurisdiction but not on the water), if applicable.</i></p>
Policies and regulations protect and enhance both physical and visual access . WAC 173-26-221(4)(d)(i).		<i>The policies and regulations in section 5.4 address both physical and visual access.</i>
Public entities are required to incorporate public access measures as part of each development project, unless access is incompatible with safety, security, or environmental protection. WAC 173-26-221(4)(d)(ii).		<i>Provisions relating to shoreline development by public entities are in item A in section 5.4.2 on page 40. Item C on page 41 contains the conditions under which public access will not be required.</i>
Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required [with certain exceptions].		<p><i>Regulations in item A, section 5.4.2 on page 40. The City has chosen to also extend public access provisions to apply to water dependent uses. Exceptions are addressed in section 5.4.2 C.</i></p> <p><i>The City may also consider explicitly referencing or integrating public access plans it has already established that meet the criteria given in WAC 173-26-221 (4)(c), for example park or trail plans, approved master plans,</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Maximum height limits, setbacks, and view corridors minimize impacts to existing views from public property or substantial numbers of residences. WAC 173-26-221(4)(d)(iv); RCW 90.58.320.		<i>comprehensive plan elements, etc.</i> <i>Height limit and view corridor sections of the SMP are unfinished.</i>
VEGETATION CONSERVATION (CLEARING AND GRADING) WAC 173-26-221(5)		
Vegetation standards implement the principles in WAC 173-26-221(5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. WAC 173-26-221(5)(c).		<i>Vegetation conservation provisions are contained in section 5.9. While this section of the SMP addresses the guidelines principles listed to the left, clarifications and additional detail are needed in a number of locations before ECY can make a finding that the SMP adequately implements the WAC. See additional written comments.</i>
Selective pruning of trees for safety and view protection is allowed and removal of noxious weeds is authorized. WAC 173-26-221(5)(c).		<i>Trimming of trees and vegetation is addressed in section 5.9.6 F.</i> <i>I didn't see that/if removal of noxious weeds was authorized.</i>
WATER QUALITY WAC 173-26-221(6)		
Provisions protect against adverse impacts to water quality and storm water quantity and ensure mutual consistency between SMP and other regulations addressing water quality. WAC 173-26-221(6).		<i>Policies in section 5.11.1 and regulations in 5.11.2 protect against adverse impacts to water quality and stormwater quantity. For purposes of aesthetics and other goals of the SMA, consider placement of stormwater facilities like retention or treatment facilities outside of shoreline jurisdiction where feasible, unless they are water dependent or mimic the function of a natural system.</i> <i>Item F at the end of this section may be very difficult to enforce as a regulation, and could be construed to prohibit any development with landscaping.</i> <i>Consider clarifying what it would mean for a use to require these, if the intention is to prohibit a use that would require use of a lot of chemicals (and how much that is), etc.</i>
SHORELINE MODIFICATIONS		
SMP: (a) allows structural shoreline modifications only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing		<i>(a) is addressed in regulation A in section 7.1.2 on page 101. Could be stated more clearly.</i> <i>(b)table 7.1 and chapter 7 of the SMP contain provisions</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>shoreline use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement;</p> <p>(b) limits shoreline modifications in number and extent;</p> <p>(c) allows only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed;</p> <p>(d) gives preference to those types of shoreline modifications that have a lesser impact on ecological functions. Policies promote "soft" over "hard" shoreline modification measures</p> <p>(f) incorporates all feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur;</p> <p>(g) requires mitigation sequencing.</p> <p>WAC 173-26-231(2); WAC 173-26-231(3)(a)(ii) and (iii);</p>		<p><i>intended to implement standards relating to limitation of shoreline modifications in number and extent.</i></p> <p><i>(c) is assumed to be addressed by matrix 7.1 on page 102; a statement to this effect could also be made.</i></p> <p><i>(d) is addressed in regulation C in section 7.1.2 on page 101.</i></p> <p><i>(f) is addressed in regulations B and C in section 7.1.2 on page 101. Reference to all feasible actions could also be made.</i></p> <p><i>(g) is addressed in regulation B in section 7.1.2 on page 101.</i></p>
SHORELINE STABILIZATION WAC 173-26-231(3)(a)		
<p>Definition: structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. WAC 173-26-231(3)(a)(i).</p> <p>Definition of new stabilization measures include enlargement of existing structures. WAC 173-26-231(3)(a)(iii)(C), last bullet; WAC 173-26-231(3)(a)(iii)(B)(I), 5th bullet).</p>		<p><i>Reference is made to manmade processes such as boat wake; this reference must be removed from the definition in section 7.7 on page 116.</i></p> <p><i>The last sentence in regulation A in section 7.7.4 on page 119 specifies that additions to or increases in the size of existing structures will be considered new structures.</i></p>
<p>Standards setting forth circumstances under which shoreline alteration is permitted, and for the design and type of protective measures and devices. WAC 173-26-231(3)(a)(ii).</p>		<p><i>This general provision is addressed through all of the policies and regulations in section 7.7 of the SMP.</i></p>
<p>New development <i>(including newly created parcels)</i> required to be designed and located to prevent the need for future shoreline stabilization, based upon geotechnical analysis.</p> <p>New development on steep slopes and bluffs required to be set back to prevent need for future shoreline stabilization during life of the project, based upon</p>		<p><i>These provisions are generally addressed in regulations A and D in section 7.7.2 on page 118. This paragraph needs to also include reference to the creation of new lots (subdivision).</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>geotechnical analysis.</p> <p>New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited. WAC 173-26-231(3)(a)(iii)(A).</p>		
<p>New structural stabilization measures are not allowed except when necessity is demonstrated. Specific requirements for <i>how to demonstrate need</i> are established for:</p> <p>(I) existing primary structures;</p> <p>(II) new non-water-dependent development including single family residences;</p> <p>(III) water-dependent development; and</p> <p>(IV) ecological restoration/toxic clean-up remediation projects. WAC 173-26-231(3)(a)(iii)(B)</p>		<p><i>The requirements for these various scenarios seem to be mixed and matched in sections 7.7.2 and 7.7.3. For example, some Guidelines provisions that relate only to existing primary structures (versus NEW development) have been included in section 7.7.2, which by its title indicates it applies only to new development. In addition, the provisions are a little different for water dependent development versus non-water dependent development. Please see comments in the text.</i></p>
<p>Replacement of existing stabilization structures is based on demonstrated need. Waterward encroachment of replacement structure is allowed only for residences occupied prior to January 1, 1992, Or for soft shoreline stabilization measures that provide restoration of ecological functions. WAC 173-26-231(3)(a)(iii)(C).</p>		<p><i>Addressed in regulations in section 7.7.4 starting on page 119.</i></p>
<p>Geotechnical reports prepared to demonstrate need include estimates of rate of erosion and urgency (damage within 3 years) and evaluate alternative solutions. WAC 173-26-231(3)(a)(iii)(D).</p>		<p><i>Addressed in section 7.7.6 on page 121.</i></p>
<p>Shoreline stabilization structures are limited to the minimum size necessary. WAC 173-26-231(3)(a)(iii)(E).</p>		<p><i>Regulation B in section 7.7.5 on page 120.</i></p>
<p>Public access required as part of publicly financed shoreline erosion control measures. WAC 173-26-231(3)(a)(iii)(E).</p>		<p><i>Needs to be addressed in the SMP.</i></p>
<p>Impacts to sediment transport required to be avoided or minimized. WAC 173-26-231(3)(a)(iii)(E).</p>		<p><i>Addressed in regulation C5 in section 7.7.2 on page 118. Because this section is titled to apply to new development, a similar statement should be made in section 7.7.3.</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
PIERS AND DOCKS WAC 173-26-231(3)(b)		
<p>New piers and docks:</p> <p>Allowed only for water-dependent uses or public access</p> <p>Restricted to the minimum size necessary to serve a proposed water-dependent use.</p> <p>Permitted only when specific need is demonstrated (except for docks accessory to single-family residences).</p> <p>Note: Docks associated with single family residences are defined as water dependent uses provided they are designed and intended as a facility for access to watercraft. WAC 173-26-231(3)(b).</p>		<p><i>Policies A, B, and H in section 7.5.1 on page 108.</i></p> <p><i>Regulation A in section 7.5.2.</i></p> <p><i>More information is needed on the level of reconstruction/repair/modification that triggers total compliance with provisions in this section. For example, is it when one board is replaced, one pile or pier support, 50% of the surfacing boards, etc.?</i></p> <p><i>Also, see intro to draft HPA language for marine residential docks. This language is useful in separating floating portions of docks from stand-alone recreational floats. This may be helpful in sections 7.5.5.1 and 7.5.5.2.</i></p> <p><i>We will need to see standards for allowed residential boat lifts.</i></p>
<p>When permitted, new residential development of more than two dwellings is required to provide joint use or community docks, rather than individual docks. WAC 173-26-231(3)(b)</p>		<p><i>Policies C2 and D, section 7.5.1 on page 108.</i></p> <p><i>Regulation B in section 7.5.4 on page 110.</i></p>
<p>Design, construction & placement of piers, docks, mooring buoys, boat lifts, boat ramps, marine railways, and float plane facilities are required to avoid, minimize and mitigate for impacts to ecological processes and functions and be constructed of approved materials. WAC 173-26-231(3)(b).</p>		<p><i>Policies E, H, I and J in section 7.5.1 on page 108.</i></p> <p><i>Various regulations in chapter 7.5 address this requirement, including but not limited to:</i></p> <p><i><u>Section 7.5.2 (General):</u> regulations B, D, E, and G.</i></p> <p><i><u>Section 7.5.4 (Residential piers, docks & floats):</u> regulations A, B and H.</i></p> <p><i><u>Section 7.5.5.1 (Marine Waters):</u> most of the regulations in this section replicate WDFW HPA, USACOE Regional General Permit, and/or DNR aquatic land lease avoidance and minimization measure requirements. In addition to other regulations in the SMP, these provisions address avoidance, minimization, mitigation, and approved materials. Functional grating for float portions of docks does not appear to have been included.</i></p> <p><i><u>Section 7.5.5.2 (Freshwater):</u> It is unclear where most of these standards originated. There also appear to be</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
		<i>conflicts with the WDFW's proposed HPA rule for residential overwater structures in freshwater. Please see text for more specific comments.</i>
FILL WAC 173-26-231(3)(c)		
Definition of "fill" consistent with WAC 173-26-020(16).		<i>Section 7.4, page 105.</i>
Location, design, and construction of all fills protect ecological processes and functions, including channel migration. WAC 173-26-231(3)(c).		<i>Policy A in section 7.4.1 and regulation B in section 7.4.2 on pages 105-106.</i>
<p>Fill waterward of the OHWM allowed only by shoreline conditional use permit, for:</p> <ul style="list-style-type: none"> Water-dependent use; Public access; Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; Disposal of dredged material in accordance with DNR Dredged Material Management Program; Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible); Mitigation action, environmental restoration, beach nourishment or enhancement project. WAC 173-26-231(3)(c). 		<p><i>Table 7.1 on page 102 states that a CUP is required for fill waterward of the OHWM.</i></p> <p><i>The regulations in section 7.4.3 address the activities for which fills are permitted. The City has narrowed statements regarding fill for transportation facilities to recognize the fact that there are no transportation facilities of statewide significance located on Olympia's shorelines but that other transportation facilities (bridges and railroads) do exist waterward of the OHWM in Olympia. The City has also added an allowance for fill for berms it may construct to protect the City's downtown from the effects of Sea Level Rise (SLR). Ecology would request additional language clarifying this is only when the structures are public (versus private) and that there is no other feasible option. #7 in this section relating to the maintenance of lawfully established development should be stricken; allowances in the Guidelines are limited to water dependent uses. The same applies to water oriented recreational uses in #5. To recognize fill for soft shoreline stabilization, Ecology suggests adding that purpose to #3 in this section.</i></p>
BREAKWATERS, JETTIES, AND WEIRS WAC 173-26-231(3)(d)		
Structures waterward of the ordinary high-water mark allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. WAC 173-26-231(3)(d).		<i>Regulation A in section 7.8.2 on page 122.</i>
Shoreline conditional use permit required for all structures except protection/restoration projects. WAC		<i>Table 7.1 on page 102</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
173-26-231(3)(d).		
Protection of critical areas and appropriate mitigation required. WAC 173-26-231(3)(d).		<i>Regulations</i>
DUNES MANAGEMENT WAC 173-26-231(3)(e)		
Development setbacks from dunes prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dunes. WAC 173-26-231(3)(e).		<i>Not applicable</i>
Dune modifications allowed only when consistent with state and federal flood protection standards and result in no net loss of ecological processes and functions. WAC 173-26-231(3)(e).		
Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy. WAC 173-26-231(3)(e).		
DREDGING WAC 173-26-231(3)(f)		
Dredging and dredge material disposal avoids or minimizes significant ecological impacts. Impacts which cannot be avoided are mitigated. WAC 173-26-231(3)(f).		<i>Generally addressed in regulations in section 7.3.2, most specifically regulation H on page 104.</i>
New development siting and design avoids the need for new and maintenance dredging. WAC 173-26-231(3)(f).		<i>Regulation A in section 7.3.2 on page 103</i>
Dredging to establish, expand, relocate or reconfigure navigation channels allowed only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. WAC 173-26-231(3)(f).		<i>Policy B in section 7.3.1 on page 103 speaks to this requirement, however it is suggested this be clarified to exclude maintenance dredging. Regulation B4 in section 7.3.2 on page 104 also addresses this requirement however it could also be clarified.</i>
Maintenance dredging of established navigation channels and basins restricted to maintaining previously dredged and/or existing authorized location, depth, and width.		<i>Regulation B5 in section 7.3.2 on page 104</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
WAC 173-26-231(3)(f).		
<p>Dredging for fill materials prohibited except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. Placement of fill must be <i>waterward</i> of OHWM. WAC 173-26-231(3)(f).</p>		<p><i>Partially addressed in regulation E in section 7.3.2 on page 104; need to add remainder of language from the guidelines.</i></p>
<p>Uses of dredge material that benefits shoreline resources are addressed. If applicable, addressed through implementation of regional interagency dredge material management plans or watershed plan. WAC 173-26-231(3)(f).</p>		<p><i>Regulations B6 and F in section 7.3.2 on page 104. The City may wish to expand on this section in consultation with DNR and the Dredged Material Management Program.</i></p>
<p>Disposal within river channel migration zones discouraged, and in limited instances when allowed, require CUP. (Note: not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone). WAC 173-26-231(3)(f).</p>		<p><i>Not addressed.</i></p>
<p>SHORELINE HABITAT AND NATURAL SYSTEMS ENHANCEMENT WAC 173-26-231(3)(g)</p>		
<p>Provisions that foster habitat and natural system enhancement projects, provided the primary purpose is restoration of the natural character and functions of the shoreline, and only when consistent with implementation of the restoration plan developed pursuant to WAC 173-26-201(2)(f).</p>		<p><i>Section 7.6 is intended to address restoration and enhancement. This section appears significantly similar to section 5.8, perhaps they could be combined. Some reference to the shoreline restoration plan would be appropriate.</i></p> <p><i>Because in-stream structures are permitted for purposes other than just restoration or enhancement, it may be more appropriate to give H its own section. See also specific comments regarding this use below.</i></p>
<p>Application For Relief option from expansion of SMA jurisdiction by shoreline restoration projects. RCW 90.58.580.</p>		<p><i>Suggest the City add related language to the SMP.</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
SPECIFIC SHORELINE USES		
AGRICULTURE WAC 173-26-241(3)(a)		
Use of agriculture related terms is consistent with the specific meanings provided in RCW 90.58.030 and .065.		<i>Only <u>agricultural activities</u> are defined in the SMP; likely need to add at least definition of <u>agricultural land</u>. Missing last sentence in definition of agricultural activities related to replacement agricultural facilities maintaining the same distance from the shoreline as the original facility.</i>
Provisions address new agricultural activities , conversion of agricultural lands to other uses, and other development not meeting the definition of agricultural activities. Provisions assure that development in support of agricultural uses is: (A) consistent with the environment designation; and (B) located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values. WAC 173-26-241(3)(a)(ii) & (v).		<i>The SMP prohibits new agricultural activities and designation of new agricultural lands. To address conversion of ag lands of other uses and development not meeting the definition of ag activities I suggest adding the following statement from WAC 173-26-241(3)(a)(vi): 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 location.</i>
Shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).		<i>Generally covered by definition of exempt development on page 9 of the SMP and by the section addressing exemptions from the substantial development permit process in section 3.3 on page 22.</i>
Conversion of agricultural land to non-agricultural uses is consistent with the environment designation, and regulations applicable to the proposed use do not result in a net loss of ecological functions. WAC 173-26-241(3)(a)(vi).		<i>See above comment/suggestion.</i>
AQUACULTURE WAC 173-26-241(3)(b)		
General Provisions		
Definition of aquaculture consistent with WAC 173-26-020(6) and -241(3)(b)(i)(A).		<i>Add statement that the state managed wild geoduck fishery is not included in definition.</i>
Aquaculture is defined as dependent on the use of the		<i>Not included in definition.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. WAC 173-26-241(3)(b)(i)(A).</p>		
<p>SMP recognizes that potential locations for aquaculture are restricted, technology associated with some forms of present-day aquaculture is still in its formative stages and experimental, and recognizes the need for some latitude in the development of this use as well as its potential impact on existing uses and natural systems. WAC 173-26-241(3)(b)(i)(B).</p>		<p><i>N/A - new aquaculture is prohibited</i></p>
<p>General ecological siting considerations: Provisions require consideration of local ecological conditions and providing limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions. WAC 173-26-241(3)(b)(i)(A).</p> <p>Aquaculture is not permitted in areas where it would result in a net loss of ecological functions or adversely impact eelgrass and/or macroalgae. Impacts to ecological functions shall be mitigated consistent with the mitigation sequence. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new nonnative species which cause significant ecological impacts. WAC 173-26-241(3)(b)(i)(C).</p>		<p><i>The SMP currently prohibits new aquacultural activities unless such activities are for the recovery of native populations or part of a restoration project. The City may wish to more extensively consider aquaculture as I don't recall the Planning Commission spending any time on the topic or considering anything other than subsurface planting of shellfish as aquaculture.</i></p>
<p>Aquaculture is not permitted in areas where it would significantly conflict with navigation and other water-dependent uses. WAC 173-26-241(3)(b)(i)(C).</p>		<p><i>N/A</i></p>
<p>Aquacultural facilities should not significantly impact the aesthetic qualities of the shoreline. WAC 173-26-241(3)(b)(i)(C).</p>		<p><i>N/A</i></p>
<p>Provisions must ensure proper management of upland uses to avoid degradation of water quality of existing shellfish areas. WAC 173-26-241(3)(b)(i)(D).</p>		<p><i>N/A</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Inventory and characterization must include information specific to siting in-water uses and development, including intertidal property ownership, aquaculture operations, shellfish beds, shellfish protection districts, and areas that meet health shellfish water quality certification requirements. WAC 173-26-201(3)(c)(xi).</p> <p>Review of data and information specific to shellfish areas must also be done as part of the inventory and characterization. WAC 173-26-201(3)(d)(vii).</p>		
<p>Provisions require reserve of shoreline space for shoreline preferred uses, specifically existing shellfish protection districts and critical habitats. WAC 173-26-211(5)(c)(ii)(G).</p>		N/A
<p>Subsistence, commercial and recreational shellfish beds are included in the definition of critical saltwater habitats. The inclusion of commercial aquaculture does not limit its regulation as a use. Reserving shoreline areas for protecting and restoring ecological functions should be done prior to reserving shoreline areas for uses. WAC 173-26-221(2)(c)(iii).</p>		<i>Was unable to locate a definition for critical saltwater habitat.</i>
<p>Commercial geoduck aquaculture siting considerations</p>		N/A
<p>Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading. WAC 173-26-241(b)(ii)</p>		<i>Don't believe commercial geoduck aquaculture has been considered in Olympia (Budd Inlet) - unlikely that water quality conditions would support commercial farms.</i>
<p>As determined by Attorney General Opinion 2007 No. 1, the planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific product or practice causes substantial interference with normal public use of the surface waters, but not otherwise. WAC 173-26-241(b)(iii)</p>		N/A
<p>Conditional use permits are required for new commercial geoduck aquaculture only. Where the applicant proposes to convert existing nongeoduck aquaculture to geoduck aquaculture, the requirement for a conditional use permit is at the discretion of local</p>		N/A - currently prohibited

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
government. Public notice must be provided to tribes and adjacent property owners. Limits and conditions to achieve no net loss must be used. WAC 173-26-241(b)(iv)(A) - (L).		
BOATING FACILITIES WAC 173-26-241(3)(c)		
Definition: Boating facility standards do not apply to docks serving four or fewer SFRs. WAC 173-26-241(3)(c).		<i>Captured in definition on page 6. Suggest clarifying this also applies to public moorage facilities not part of a marina (may address in definition of marina). Need to address inconsistencies between definitions of boat house and covered moorage.</i>
Boating facilities restricted to suitable locations . WAC 173-26-241(3)(c)(i).		<i>Regulations in sections 6.6.2 through 6.6.5.</i>
Provisions ensuring health, safety, and welfare requirements are met. WAC 173-26-241(3)(c)(ii)		<i>Health and safety appear to be primarily addressed through provisions requiring restrooms and garbage facilities. General regulations also require location of these facilities where water quality can be maintained and adverse impacts to ecological function can be largely avoided. Regulations in section 6.6.4 also speak to public health and welfare.</i>
Provisions to avoid or mitigate aesthetic impacts . See WAC 173-26-241(3)(c)(iii).		<i>Aesthetic impacts are addressed by requiring landscaping, that visual public access generally be maintained through such sites, and that glare and light from the facilities be minimized, shielded and appropriately oriented.</i>
Public access required in new boating facilities. WAC 173-26-241(3)(c)(iv).		<i>Regulations 6.6.2 E on page 84 and 6.6.4 (B) (4) on page 85.</i>
Impacts of live-aboard vessels are limited. WAC 173-26-241(3)(c)(v).		<i>Regulation B6 in section 6.6.4 on page 850</i>
Provisions assuring no net loss of ecological functions as a result of development of boating facilities while providing public recreational opportunities. WAC 173-26-241(3)(c)(vi).		<i>Addressed in regulations sections 6.6.2 through 6.6.5 on pages 83 through 86.</i>
Navigation rights are protected. WAC 173-26-241(3)(c)(vii).		<i>Reference made in 6.6.4 B 5 on page 85, although this could be clarified/made more specific.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Extended moorage on waters of the state without a lease or permission is restricted, and mitigation of impacts to navigation and access is required. WAC 173-26-241(3)(c)(viii).</p>		<p><i>Does not appear to have been addressed in the SMP.</i></p>
<p>COMMERCIAL DEVELOPMENT WAC 173-26-241(3)(d)</p>		
<p>Preference given first to water-dependent uses, then to water-oriented commercial uses. WAC 173-26-241(3)(d).</p>		<p><i>In the use tables, preference appears to have been given to water oriented commercial development over non water oriented commercial development with respect to the permitting process. In some locations this preference is also generally reflected in lesser setbacks for water oriented commercial development. Policies in section 6.7.1 also support this preference.</i></p>
<p>Water-enjoyment and water-related commercial uses required to provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access. WAC 173-26-241(3)(d).</p>		<p><i>All commercial uses are required to provide public access in accordance with sections 6.7.2 and 5.4 of the SMP. Enhancement or restoration of the vegetation conservation area (VCA) is also required under sections 6.7.2 and 5.9. Clarifying language may be necessary.</i></p>
<p>New non-water-oriented commercial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(d).</p>		<p><i>Policies in section 6.7.1 and regulations in section 6.7.4 include this prohibition, however how this text interacts with or qualifies the development standards in tables 6.1 through 6.10 needs some attention. In addition, regulations 6.7.2 B and C suggest that all commercial development must provide public access and enhance or restore the VCA, which seems to automatically qualify all development addressed in provision 6.7.4 A on page 88.</i></p>
<p>Non-water-dependent commercial uses over water prohibited except in existing structures, and where necessary to support water-dependent uses. WAC 173-26-241(3)(d).</p>		<p><i>Construction of new and expansion of existing overwater commercial buildings are prohibited in section 6.7.2 A.</i></p>
<p>FOREST PRACTICES WAC 173-26-241(3)(e)</p>		
<p>Forest practices not covered by the Forest Practices Act, especially Class IV-General forest practices involving conversions to non-forest use result in no net loss of ecological functions and avoid impacts to navigation, recreation and public access. WAC 173-26-241(3)(e).</p>		<p><i>Don't see that forest practices have been addressed in the SMP. Regulation 6.2.2 E?</i></p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
SMP limits removal of trees on shorelines of statewide significance (RCW 90.58.150). Exceptions to this standard require shorelines conditional use permit. WAC 173-26-241(3)(e).		<i>See above</i>
INDUSTRY WAC 173-26-241(3)(f)		
Preference given first to water-dependent uses, then to water-oriented industrial uses. WAC 173-26-241(3)(f).		<i>Where industrial activities are allowed, a preference for water dependent industrial uses over non-water oriented industrial uses is reflected in the use matrix/permitting process and development standards such as setbacks. Policies and regulations in sections 6.8.1 and 6.8.2 also support this preference.</i>
Location, design, and construction of industrial uses and redevelopment required to assure no net loss of ecological functions. WAC 173-26-241(3)(f).		<i>Various policies and regulations in section 6.8 address this requirement.</i>
Industrial uses and redevelopment encouraged to locate where environmental cleanup and restoration can be accomplished. WAC 173-26-241(3)(f).		<i>Policy 9.8.1 G on page 89</i>
Public access required unless such a requirement would interfere with operations or create hazards to life or property. WAC 173-26-241(3)(f).		<i>This is loosely referenced in sections 6.8.2 (C) and (G4) however additional detail is needed. Consider addressing public access similarly to how it was addressed in the commercial section with regard to security, safety, and constitutionality considerations, etc.</i>
New non-water-oriented industrial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(f).		<i>This does not appear to have been addressed in the SMP. The only location where tables 6.1 through 6.10 authorize non-water oriented industrial development is in the PI designation and it seems unlikely that these tests could be met. The guidelines also allow for non water oriented industrial development where the site is separated from the shoreline by another property or public right of way.</i>
IN-STREAM STRUCTURES WAC 173-26-241(3)(g)		
Definition: structure is waterward of the ordinary high water mark and either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. WAC 173-26-241(3)(g).		<i>Definition is on page 11.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>In-stream structures protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. WAC 173-26-241(3)(g).</p>		<p><i>Appear to be lumped in with ecological restoration and enhancement; however not all in stream structures would be associated with restoration and/or enhancement.</i></p> <p><i>The guidelines requirements are addressed in what is currently regulation H in section 7.6.2 on page 116.</i></p>
<p>MINING WAC 173-26-241(3)(h)</p>		
<p>Policies and regulations for new mining projects:</p> <ul style="list-style-type: none"> Require design and operation to avoid and mitigate for adverse impacts during the course of mining and reclamation; Achieve no net loss of ecological functions based on required final reclamation; Give preference to proposals that create, restore or enhance habitat for priority species are coordinated with state Surface Mining Reclamation Act requirements; Assure subsequent use of reclaimed sites is consistent with environment designation and SMP standards. WAC 173-26-241(3)(h)(ii)(A) – (C). 		<p><i>Regulation 6.2.2 E?</i></p>
<p>Mining waterward of OHWM is prohibited unless:</p> <ul style="list-style-type: none"> (I) Removal of specified quantities of materials in specified locations will not adversely impact natural gravel transport; (II) The mining will not significantly impact priority species and the ecological functions upon which they depend; and (III) these determinations are integrated with relevant SEPA requirements. WAC 173-26-241(3)(h)(ii)(D). 		
<p>Renewal, extension, or reauthorization of in-stream and gravel bar mining activities require review for compliance with these new guidelines requirements. WAC 173-26-241(3)(h)(ii)(D)(IV).</p>		
<p>Mining within the Channel Migration Zone requires a shoreline conditional use permit. WAC 173-26-</p>		

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
241(3)(h)(ii)(E).		
RECREATIONAL DEVELOPMENT WAC 173-26-241(3)(i)		
Definition includes commercial and public recreation developments. WAC 173-26-241(3)(i).		<i>Definition on page 15</i>
Priority given to recreational development for access to and use of the water. WAC 173-26-241(3)(i).		<i>Policy A, section 6.9.1 on page 91 and regulation A, section 6.9.2 on page 92.</i>
Location, design and operation of facilities are consistent with purpose of environment designations in which they are allowed. WAC 173-26-241(3)(i).		<i>Generally referenced in regulation A2 on page 92, but suggest more direct reference.</i>
Recreational development achieves no net loss of ecological processes and functions. WAC 173-26-241(3)(i).		<i>Regulation A1 on page 92.</i>
RESIDENTIAL DEVELOPMENT WAC 173-26-241(3)(j)		
Definition includes single-family residences, multifamily development, and the creation of new residential lots through land division. WAC 173-26-241(3)(j).		<i>Generally referenced in policies in section 6.10.1 starting on page 92, but suggest more explicit reference.</i>
Single-family residences identified as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. WAC 173-26-241(3)(j).		<i>Statement should be added to section 6.10 of the SMP.</i>
No net loss of ecological functions assured with specific standards for setback of structures sufficient to avoid future stabilization, buffers, density, shoreline stabilization, vegetation conservation standards and on-site sewage disposal where applicable. WAC 173-26-241(3)(j).		<p><i>Development standards have been set forth in tables 6.1 through 6.12, including setbacks, density limitations and height limits. Vegetation conservation area dimensional standards are given in section 5.9.3 on page 49. Shoreline stabilization standards and standards relating to on-site septic are in separate sections of the SMP.</i></p> <p><i>Additions and clarifications to this section are likely necessary. The City needs to clarify reference to accessory structures and expand on some of the ideas in the text. See separate comments for additional detail.</i></p>
New over-water residences and floating homes		<i>Addressed in regulation D in section 6.10.2 on page 93, but need to also address floating homes. Are there homes</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
prohibited. Appropriate accommodation for existing floating or over-water homes. WAC 173-26-241(3)(j).		<i>on barges along Percival Landing?</i>
New multiunit residential development (including subdivision of land for more than four parcels) required to provide community and/or public access in conformance to local public access plans. WAC 173-26-241(3)(j).		<i>Regulation 6.10.2 E on page 94.</i>
New (subdivided) lots required to be designed, configured and developed to: (i) Prevent the loss of ecological functions at full build-out; (ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures; and (iii) Be consistent with applicable SMP environment designations and standards. WAC 173-26-241(3)(j)		<i>Generally referenced in policy A in section 6.10.1 and regulation B in section 6.10.2 on page 93.</i>
Floating Homes: Certain ones must be classified as a “conforming preferred use” per RCW 90.58.270(5).		<i>Not addressed.</i>
Nonconforming Residential Structures: SMPs may contain provisions allowing structures not meeting current standards to be considered “conforming” per RCW 90.58.620.		<i>Nonconforming structures are addressed in section 3.7 of the SMP.</i>
TRANSPORTATION FACILITIES WAC 173-26-241(3)(k)		
Proposed transportation and parking facilities must be designed and located where they will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions, or adversely impact existing or planned water dependent uses. WAC 173-26-241(3)(k).		<i>Addressed in regulations in section 6.11.2 and 5.3 (parking). Suggest adding statement regarding no net loss to item F in section 5.3.2</i>
Circulation system plans include systems for pedestrian, bicycle, and public transportation where appropriate. WAC 173-26-241(3)(k).		<i>SMP addresses multi-modal forms of transportation. Pedestrian circulation is addressed for parking areas in 5.3.2 E.</i>
Parking allowed only as necessary to support an authorized shoreline use and which minimize environmental and visual impacts of parking facilities.		<i>With addition of no net loss statement as suggested above, regulations in section 5.3.2 address these standards.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
WAC 173-26-241(3)(k).		
UTILITIES WAC 173-26-241(3)(l)		
Design, location and maintenance of utilities required to assure no net loss of ecological functions. WAC 173-26-241(3)(l).		<i>Regulation A in section 6.12.2 on page 97. Add reference to maintenance to address all conditions.</i>
Utilities are required to be located in existing rights-of-ways whenever possible. WAC 173-26-241(3)(l).		<i>Regulation F in section 6.12.2 on page 97.</i>
Utility production and processing facilities and transmission facilities required to be located outside of SMA jurisdiction , unless no other feasible option exists. WAC 173-26-241(3)(l).		<i>Regulation B in section 6.12.2 on page 97.</i>
Existing Utilities: Not allowed to justify more intense development. WAC 173-26-211(3)(c)		<i>Need to add to SMP.</i>
SMP ADMINISTRATIVE PROVISIONS		
This statement “ <i>Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program whether or not a permit is required.</i> ” must appear in the SMP. WAC 173-26-191(2)(a)(iii)(A).		<i>Section 1.5 (A), page 3 and section 3.1, page 21.</i>
Administrative provisions ensure permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property. WAC 173-26-186(5) and WAC 191(2)(a)(iii)(A).		<i>Section 1.2 (D) , page 2</i>
Annexation: SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 are complied with.		<i>The City has pre-designated shorelines within its UGA. Section 4.1 B indicates that they City currently has authority only over those shorelines within its municipal boundaries.</i>
Exemptions: Must implement exemption procedures in accordance with WAC 173-27-040(1).		<i>In definitions: note that dollar threshold for exemptions recently changed (2012).</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
<p>Permit Exemption Letters: Must be prepared for projects requiring Federal Rivers & Harbors Act §10 permits and/or Federal Clean Water Act §404 permits. WAC 173-27-050.</p>		<p>Section 3.3 (B) on page 22.</p>
<p>Retroactive SMA/GMA Relationship: RCW <u>36.70A.480</u> governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter <u>36.70A</u> RCW. <i>The legislature intends for this act to be remedial and curative in nature, and to apply retroactively to July 27, 2003.</i> See RCW 36.70A.480, Footnotes.</p>		<p>Section 1.7 on page 4 indicates that critical areas within shoreline jurisdiction will be regulated by the SMP. This could be stated more clearly. This section also adopts the City's CAO by reference.</p>
<p>GMA Administrative Interpretation: GMA jurisdictions SMP must contain procedures for administrative interpretation of development regulations. RCW 36.70B.110(11) & <u>WAC 173-26-140</u>.</p>		<p>Because the City intends to incorporate the SMP into its Development standards (Title 18 OMC), it is assumed that the administrative and appeal provisions therein would apply to shoreline permits. See also sections 3.1 D and 3.7.5 B.. Ecology will review the permit processing and appeal procedures and timelines in OMC Title 18 to ensure they concur with those set forth in RCW90.58 and WAC 173-27.</p>
<p>Substantial Development Permits: Approved SDPs must comply with WAC 173-27-150.</p>		<p>Section 3.2, page 21.</p>
<p>Conditional Use Permit: Approved CUPs must comply with WAC 173-27-160.</p>		<p>Section 3.4, page 22.</p>
<p>SMPs must specify which uses and developments require a shoreline conditional use permit (CUP).</p>		<p>The tables in Chapter 6 specify which uses may be authorized with a CUP. In addition, sections 3.4 (D) on page 23 and 3.6 on page 24 outline the circumstances under which non listed uses may be authorized as conditional uses.</p>
<p>Variances: Approved VARs must comply with WAC 173-27-170.</p>		<p>Section 3.5, page 23.</p>
<p>Permit Revisions: Must comply with the revision approval criteria of WAC 173-27-100.</p>		<p>Need to review OMC title 18.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Federal Projects: Must comply with WAC 173-27-060, with differing requirement in and out of the federal Coastal Zone Management Program.		<i>Section 1.5 (D), page 3</i>
Non-conforming uses and structures <u>not</u> covered by RCW 90.58.270(5), 90.58.620, and not addressed by the SMP must comply with WAC 173-27-080.		<i>Nonconforming uses, lots and structures are addressed in the SMP in section 3.7 starting on page 24.</i>
Mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas. WAC 173-26-191(2)(a)(iii)(D)		<i>Did not see such a process outlined in the SMP.</i>
SMP definitions are consistent with all definitions in WAC 173-26-020, and other relevant WACs.		<i>Will continue to review; see separate written comments.</i>