Bainbridge Island City Council Approved SMP Alternative Language

Item	SMP Submittal Provision	Topic	Language from the June 7, 2013 draft SMP submitted to Ecology	Bainbridge Island City Council Action
1	**Table 4-1**	**4-1 Use Table**	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: Add foot note to allow mixed use development in areas within the Mixed Use Town Center zones, when physically separated from the shoreline by another parcel and in accordance with 5.4.
2	**4.1.3.8(3)(e)(iii)**	**Shoreline Vegetation Alteration**	Stairways shall not exceed 250 square feet and are not included in the total square footage allocations prescribed in subsections a through c above. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance. A. As an alternative to a staircase larger than 250 square feet and to reduce environmental impacts, a tram may be allowed without a variance.	City Council approved alternative language on November 20, 2013: 4.1.3.7(3) Stairways to the shoreline shall not exceed ~~250~~ 300 square feet for private use, the minimum necessary for public use and are not included in the total square footage allocations prescribed in subsections ~~4.1.3.8. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04.~~ A. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance. ~~A~~i. As an alternative to a stairway larger than ~~250~~ 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance. B. Stairway design shall meet the following minimum criteria: 1. International Codes for: a. Hand Railings; b. Stairway width; and c. Tread Depth. 2. Landings are required, unless demonstrated not to be necessary, and shall be determined by: a. Existing site topography; b. Personal safety; and c. Slope stability.
3	**4.1.3.10(4)(a)**	**Shoreline Vegetation Alteration**	a. Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4) feet on either side of the trail, and no significant trees are removed.	City Council approved alternative language on November 20, 2013: Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (~~4~~2) feet on either side of the trail, and no significant trees are removed.
8	**5.2.5(11)**	**Aquaculture Regulations**	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: The following shall be limited to the minimum size or number necessary for approved aquaculture development, uses, activities: a. Submerged or intertidal structures. b. Land-based facilities. c. Structures which modify substrate.
10	**5.2.5(4)**	**Aquaculture Regulations**	Move existing language in the June 7, 2013 transmittal to Department of Ecology from 5.2.5(4) to 5.2.5(1).	City Council approved alternative language on November 20, 2013: Floating and submerged aquaculture structures shall be located to minimize interference with navigable waters and the public's use of the water and shoreline. Floating structures shall

				remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body. Netting and fencing shall be the minimum necessary to deter targeted predators and shall not exceed 6 feet in height, as measured from water surface.
12	**5.4.4(1)(d)**	**Commercial Development**	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: Water-Oriented and non-water oriented commercial uses may be permitted in a mixed-use development within the Mixed Use Town Center districts provided: i. The site is physically separated from the shoreline by another property in separate ownership or by a public-right-of-way such that water access is precluded, provided that the property conditions were lawfully established prior to the effective date of this Program; and ii. Water-oriented commercial or non-water oriented commercial development is subordinate to the residential use.
13	**5.9.5(8)**	**Residential Development**	a. Building. The minimum side setback shall be that established by BIMC Title 18, Zoning. Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary structure. Structures in the side setbacks may not exceed four feet in height from existing grade, except that fences may have an additional two feet (2') of non-screening material for a total of six feet (6'). Approved Shoreline Stabilization measures may be installed within the side setbacks.	City Council approved alternative language on November 20, 2013: a. Building. The minimum side setback shall be ~~that~~ established by BIMC Title 18, Zoning. Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary residential structure (insert figure). i. Structures in the side setbacks may not exceed four feet in height from existing grade, except that fences on the side property line may have an additional two feet (2') of non-screening material for a total of six feet (6'). Approved Shoreline Stabilization measures.
14	**6.2.4(1)**	**Shoreline Stabilization**	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: Sheet pile style hard stabilization may be allowed for remediation and hybrid shoreline stabilization projects in accordance with 6.2.5
15	**6.2.5(3)(c)**	**Shoreline Stabilization**	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: Sheet pile style hard stabilization may be used in: a. Remediation projects to contain contaminated soils or sediments when demonstrated to the satisfaction of the Administrator to be the most appropriate solution; or b. Hybrid stabilization when used as a stop-gap measure at or near extreme high water.
16	**7.2.6**	**Violations, Enforcement, and Penalties**	**Violation Mitigation/Restoration Plan** Any Mitigation/Restoration Plan (Plan) required by the City after disturbance has occurred shall meet the provisions in Sections 4.1.2, Environmental Impact; 4.1.5 Critical Ares including Appendix B; and 6.0, Shoreline Modification Policies and Regulations, and provide an analysis of lost functions over the period of violation. All development work shall remain stopped until a Plan is approved by the Administrator. The Plan must be prepared at the expense of the violator, and submitted by the owner or other responsible party for approval by the Administrator. Such a Plan shall be prepared by a qualified professional using the best available science. The Administrator may, at the violator's expense, seek expert advice, including an independent third party review, in determining the adequacy of the Plan. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal. Failure to submit a Plan shall be unlawful. Failure to implement the approved Plan shall be a criminal misdemeanor.	City Council approved alternative language on November 20, 2013: Any Mitigation/Restoration Plan (Plan) required ~~by the City after~~ for a disturbance not authorized by this shoreline management program or approved by the City ~~has occurred~~ shall meet the provisions in Sections 4.1.2, Environmental Impact; 4.1.5 Critical Ares including Appendix B; and 6.0, Shoreline Modification Policies and Regulations, and provide an analysis of lost functions over the period of violation. Any person, party, firm, corporation, or other legal entity that ~~knowingly and~~ willfully refuses to complete a required restoration plan pursuant to this section, shall be guilty of a misdemeanor and provide shoreline restoration, in accordance with provision of this program, at a rate of 200% ~~times~~ (2 to 1) the impacted area.

17	7.2.7	**Violations, Penalties, and Enforcement**	**Civil Infraction** Except as provided in subsection 7.2.8, Misdemeanor, conduct made unlawful by the city under this Master Program shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26, Code Enforcement.	City Council approved alternative language on November 20, 2013: Except as provided in subsection 7.2.8, Misdemeanor, conduct made unlawful by the city under this Master Program shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26, Code Enforcement and in compliance with WAC 173-27-280
18	7.2.9	**Violations, Penalties, and Enforcement**	**Civil Penalty** In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this Program shall be subject to a cumulative civil penalty in the amount of $1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090. Any person, party, firm, corporation, or other legal entity that knowingly and willfully refuses to complete a required restoration pursuant to Section 7.2.6, Violation Mitigation/Restoration Plan, shall be guilty of a misdemeanor punishable by not more than 30 days in jail and/or not more than a $1,000 fine and provide shoreline restoration, in accordance with provision of this program, at a rate of 200% times the impacted area.	City Council approved alternative language on November 20, 2013: In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person who shall fail to conform to the terms of a permit or exemption issued under this shoreline master program or who shall undertake development on the shorelines of the state without first obtaining any permit or exemption required under this shoreline master program shall also be ~~any person engaging in conduct made unlawful by this Program shall be~~ subject to a ~~cumulative~~ civil penalty in the amount ~~of~~not to exceed $1,000 per day for each violation, each permit violation or each day of continued development without a required permit shall constitute a separate violation [RCW 90.58.210 or successor]; from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090. ~~Any person, party, firm, corporation, or other legal entity that knowingly and willfully refuses to complete a required restoration pursuant to Section 7.2.6, Violation Mitigation/Restoration Plan, shall be guilty of a misdemeanor punishable~~], ~~by not more than 30 days in jail and/or not more than a $1,000 fine~~ and ~~provide shoreline restoration, in accordance with provision of this Aprogram, at a rate of 200% times the impacted area.~~
19	7.2.10	**Violations, Penalties, and Enforcement**	No existing language in the June 7, 2013 transmittal to Department of Ecology. Add new section titled General Penalty.	City Council approved alternative language on November 20, 2013: In addition to incurring civil liability under section 7.2.9 Civil Penalty, any person, party, firm, corporation, or other legal entity found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this shoreline master program's rules, or regulations as adopted shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: PROVIDED, That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars [RCW 90.58.220, or successor].
20		**Administrative**		City Council approved alternative language on November 20, 2013: Moved submittal requirements to Administrative Manual.