

The following changes are proposed alternatives from the City of Olympia; City of Olympia Shoreline Master Program, adopted October 2, 2013 by Resolution No. M1797, conditionally approved by Ecology on April 22, 2015 and response letter from City dated August 21, 2015.

ITEM	SMP PROVISION	TOPIC	Bill Format Changes [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE	ALTERNATIVE SUGGESTED BY OLYMPIA [<u>DOUBLE UNDERLINE</u> – ADDITIONS; STRIKETHROUGH – DELETIONS]	FINAL ACCEPTED CHANGE AND ECOLOGY RATIONALE
W	Chapter 3.17 (C) Page 40	Official Shoreline Map	<p>D. Where uncertainty or conflict occurs in the exact location of a shoreline designation boundary, the Administrator shall interpret the boundaries based upon:</p> <ol style="list-style-type: none"> 1. The coordinates listed in Shoreline Environmental Designations for the City of Olympia; 2. Boundaries indicated as approximately following lot, tract, or section lines; 3. Boundaries indicated as approximately following roads or railways shall be construed to follow their centerlines; and 4. Boundaries indicated as approximately parallel to or extensions of features indicated in 1 or 2 or 3 above shall be so construed. 	<p><i>These changes are recommended because the coordinates referred to in (1) are no longer accurate; the coordinates were included in the 'Final Proposed SMP Shoreline Environmental Designations for Lacey, Olympia and Tumwater' document prepared by Thurston Regional Planning Council (TRPC) (June 2009). Shoreline reaches and environment designations were revised during the City's subsequent work on the SMP and these coordinates were never updated.</i></p>	<p>D. Where uncertainty or conflict occurs in the exact location of a shoreline designation boundary, the Administrator shall interpret the boundaries based upon:</p> <ol style="list-style-type: none"> 1. The coordinates listed in Shoreline Environmental Designations for the City of Olympia; 2. Boundaries indicated as approximately following lot, tract, or section lines; 3. Boundaries indicated as approximately following roads or railways shall be construed to follow their centerlines; and 4. Boundaries indicated as approximately parallel to or extensions of features indicated in 1 or 2 or 3 above shall be so construed. 	<p><i>The City's proposed alternative to deleting the reference to outdated coordinates is to correct the referenced coordinates and to adopt the updated version (see exhibit 1 to this attachment); the original wording of this provision would be retained.</i></p> <p><i>Ecology supports the proposed alternative. This alternative is of a clarifying nature, will result in more specificity in the SMP, and remains consistent with the purpose and intent of Ecology's original changes, the scope of the locally adopted SMP, RCW 90.58 and WAC 173-26.</i></p>
	Chapter 3.80 (B) Page 87	Existing Buildings and Uses within Shorelines			<p>E <u>In addition to and independent of the provisions below,</u> existing roads, trails, utility lines and similar linear facilities, together with any associated facilities such as pump stations or stormwater treatment ponds, which do not conform to the provisions of Chapter 18.34 may expand within existing easements and rights-of-ways. Modification or expansion outside of existing easements or rights-of-way which would otherwise be prohibited may be authorized by the decision maker upon finding there is no feasible alternative, the development is necessary for the public welfare, as proposed and designed including appropriate mitigation, and the development is not likely to result in a net loss of shoreline ecological functions.</p>	<p><i>Ecology supports the City's proposed alternative language for this provision, which provision was not initially the subject of an Ecology-recommended change. The proposed alternative language would clarify the scope of this section and affirm that this provisions is an additional exception for allowing expansion of roads, trails and other such facilities.</i></p> <p><i>This alternative is of a clarifying nature, will result in more specificity in the SMP, and remains consistent with the purpose and intent of Ecology's original changes, the scope of the</i></p>

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						locally adopted SMP, RCW 90.58 and WAC 173-26.
000	Chapter 3.81 (A) Page 88	Alteration of Structures in the Shoreline	<p>18.34.910 – Alteration of <u>Nonconforming</u> Structures in the Shoreline <u>Jurisdiction</u> A. Shoreline Structures – The following regulations apply to <u>nonconforming</u> structures located in the shoreline <u>jurisdiction</u>:</p> <p>1. Alteration of structures located landward of the Ordinary High Water Mark within a required shoreline setback is limited to:</p> <p>a. For structures located partially within the shoreline setback, alterations shall be limited to the addition of height and <u>expansion into the areas</u> outside the shoreline setback.</p> <p>b. For structures located entirely within the shoreline setbacks, alterations shall be allowed for the addition of height or <u>expansion</u> on the upland side of the structure, or both.</p> <p>c. Interior and exterior remodels and the addition of upper stories are permitted. Except as provided above, such additions shall not extend beyond the existing or approved building footprint. <u>Expansion of nonconforming structures that further encroach on the Ordinary High Water Mark setback by decreasing the distance between the structure and the Ordinary High Water Mark shall require a variance.</u></p> <p>d. Alterations shall comply with applicable development regulations in the Olympia Municipal Code.</p> <p>2. Overwater Structures – Alteration of structures located water-ward of the Ordinary High Water Mark is prohibited except:</p> <p>c. Except for modifications required by the Washington Department of Natural Resources for light penetration, alterations to the footprint or building envelope are prohibited.</p> <p>3. Other Regulations applicable to OMC 18.37.092(A)(1) and (2).</p> <p>a. Actions shall not result in a net loss of shoreline ecological functions and processes <u>and</u>; b. <u>The applicant shall obtain all required permits or approvals prior to construction;</u></p> <p>c. <u>Structures that are damaged and house a nonconforming use may be re-established in accordance with OMC 18.37.920.</u></p>	<p><i>These changes are recommended for clarity and consistency and to correct grammatical errors.</i></p> <p><i>With regard to the changes to provision #3, the first change (strike out) is recommended because this language is unnecessary and the reference is inaccurate. Sub-provisions a and b can be consolidated into one sentence. The change (strike out) of sub-provision c is</i></p>	<p>18.34.910 – Alteration of Nonconforming Structures in Shoreline Jurisdiction A. Shoreline Structures – The following regulations apply to nonconforming structures located in shoreline jurisdiction: <u>Alterations pursuant to this section shall not result in a net loss of shoreline ecological functions and processes. The applicant shall obtain all required permits or approvals prior to construction. All alternations shall comply with applicable development regulations.</u></p> <p>1. <u>Structures within Shoreline Setbacks</u> --Alteration of structures located landward of the Ordinary High Water Mark within a required shoreline setback is limited to:</p> <p>a. For structures located partially within the shoreline setback, alterations shall be limited to the addition of height and expansion into areas outside the shoreline setback.</p> <p>b. For structures located entirely within the shoreline setbacks, alterations shall be allowed for the addition of height or expansion on the upland side of the structure, or both.</p> <p>c. Interior and exterior remodels and the addition of upper stories are permitted. Except as provided above, such additions shall not extend beyond the existing or approved building footprint. Any <u>expansion</u> of nonconforming structures that further encroach on the Ordinary High Water Mark setback by decreasing the distance between the structure and the Ordinary High Water Mark shall require a <u>shoreline</u> variance.</p> <p>2. Overwater Structures – Alteration of structures located water-ward of the Ordinary High Water Mark is prohibited except: <u>a. Alterations to the footprint or building envelope may be permitted when required by Washington State Department of Natural Resources for light penetration;</u></p>	<p><i>The language in the cell to the left incorporates Ecology's recommended changes, and proposes further refinements.</i></p> <p><i>The City's proposed alternative language would restructure the chapter to move general requirements to the introductory paragraph, and includes additional clarifying edits.</i></p> <p><i>Edits to section A.2 (Overwater Structures) are intended to clarify the DNR-based exception clause by changing it from an 'exception to the exception' statement to an affirmative statement.</i></p> <p><i>Edits to section A.3 reflect alternative language proposed in Attachment B (addendum), to item UU.</i></p> <p><i>Ecology supports the City's proposed alternative language. The language is of a clarifying nature and remains consistent with the purpose and intent of Ecology's original changes, the scope of the locally adopted SMP, RCW 90.58 and WAC 173-26.</i></p>

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			<p><u>5. All alterations shall comply with applicable development regulations in the Olympia Municipal Code.</u></p>	<p><i>recommended because it is repetitive of provision B(2) that follows and the reference to subsection .920 is incorrect.</i></p>	<p>a. b. Alterations that do not increase or expand the building footprint <u>nor increase the height</u> are permitted; and a. c. Existing covered moorage may be maintained, repaired or replaced pursuant to WAC 173-27-040. c. Except for modifications required by the Washington Department of Natural Resources for light penetration, alterations to the footprint or building envelope are prohibited. 3. Actions shall not result in a net loss of shoreline ecological functions and processes and the applicant shall obtain all required permits or approvals prior to construction. <u>3. Structures within Vegetation Conservation Areas.</u> Alteration of structures located landward of the ordinary high water mark within a required vegetation conservation area (VCA) that include expansion of the building footprint shall not be permitted <u>is prohibited</u>. <u>Only</u> interior and exterior remodels and the addition of upper stories are permitted.</p>	
	<p>Chapter 3.81 (B) Page 88</p>	<p>Alteration of Structures in the Shoreline</p>			<p>B. Unintentionally damaged or destroyed structures. 1. In the event that a structure or building that does not conform to the shoreline setback is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, the structure may be restored within the existing footprint. 2. In the event that a structure or building housing a nonconforming use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such damage or destruction shall not constitute a discontinuation of the nonconforming use. In the event that a structure or building housing an existing use considered a "conditional" use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such use may be re-established without obtaining a conditional use permit.</p>	<p><i>Ecology supports the City's proposed alternative language for this provision, which provision was not initially the subject of an Ecology-recommended change.</i></p> <p><i>The proposed alternative would delete subsection B.2 because it relates to nonconforming <u>uses</u>, not structures. Chapter 3.82 of the SMP addresses nonconforming uses.</i></p> <p><i>The language is of a clarifying nature and remains consistent with the purpose and intent of Ecology's original changes, the scope of the locally adopted SMP, RCW 90.58 and WAC 173-26.</i></p>

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					<p>3. In order to take advantage of this section, a complete application for a building permit must be submitted within one year of the unintended event that caused the destruction of the structure. The applicant loses their rights under this subsection if the building permit lapses without construction of the structure proposed under the building permit.</p>	
PPP	Chapter 3.82 Page 89	Existing Shoreline Uses	<p>3.82 18.34.920 – Existing Nonconforming Shoreline Uses and Lots A. Conversions Nonconforming uses in shoreline jurisdiction shall be governed by OMC 18.37.060 (A) and (E), except expansion of nonconforming shoreline uses. The hearings examiner may authorize expansion of a use that does not conform to the Master Program provided the applicant can demonstrate all of the following: 1. The use clearly requires a specific site location on the shoreline not provided for under this Chapter; and 2. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this Chapter.</p> <p>Expansion of uses in shoreline jurisdiction that are also nonconforming with zoning use restrictions shall not be authorized.</p> <p>B. Nonconforming lots in shoreline jurisdiction shall be governed by OMC 18.37.080.</p>	<p><i>The change to the title of this section is recommended for clarity. Furthermore, the addition of “lots” is recommended because nonconforming lots are not addressed in the SMP. If they are not addressed in the SMP, they will be subject to the requirements in WAC 173-27-080. The change to reference the zoning code (OMC 18.37.060) is recommended to avoid repeating word for word an entire section that already exists in the OMC and applies city wide.</i></p> <p><i>As outlined in recommended change O, Ecology recommends moving the resumption and expansion of nonconforming uses language into this section. With regard to resumption, criteria and a process for resuming discontinued nonconforming uses exist in the City’s zoning code. For both, necessitating Ecology review by requiring a shoreline conditional use permit does not appear to add value to the process.</i></p>	<p>3.82 18.34.920 – Existing Nonconforming Shoreline Uses and Lots A. <u>Conversion and discontinuation of</u> Nonconforming uses in shoreline jurisdiction shall be governed by OMC 18.37.060 (A) and (E). B. Except e Expansion of nonconforming shoreline uses. The hearings examiner may authorize expansion of a use that does not conform to the <u>Shoreline</u> Master Program provided if the applicant can demonstrates all of the following: 1. The use clearly requires a specific site location on the shoreline not provided for under this Chapter; and 2. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this Chapter. <u>Provided, however, that E</u> expansion of uses in shoreline jurisdiction that are also nonconforming with zoning use restrictions shall not be authorized <u>are not authorized by this section. See OMC 18.37.060(B).</u> 2. The Hearing Examiner may grant a conditional use permit that allows a nonconforming use to change to another nonconforming use that would not normally be allowed in the district in which it is located; provided, that the following can be clearly demonstrated by the applicant: a. The structure that houses the existing nonconforming use cannot be used for any permitted uses because of its particular design; and b. The proposed use will be more compatible with the permitted uses of the use district than the existing use; and c. Provisions have been made to safeguard the adjoining properties against any detrimental</p>	<p><i>The language in the cell to the left generally incorporates Ecology’s recommended changes, and proposes further refinements.</i></p> <p><i>The City’s proposed alternative language would restructure this chapter and include additional clarifying language to avoid ambiguity, as detailed below.</i></p> <p><i>Sections 2-4 are redundant with the OMC referenced in subsection (A) above and do not need to be repeated.</i></p>

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					<p>effects that might result from allowing the proposed use.</p> <p>3. Historic properties. The Hearing Examiner also may grant a conditional use permit for ten years to allow the following uses to change to another residential or commercial use that is not typically allowed in the district in which it is located:</p> <p>a. An existing commercial or institutional structure in a residential zone when such structure is on the National, State or Olympia Heritage Register; or</p> <p>b. An existing commercial or institutional structure within a National, State or Olympia Historic District, excluding the South Capital Historic Register; or</p> <p>c. An existing commercial or institutional structure conditioned on restoration of a structure to achieve Register status; provided, that the following can clearly be demonstrated by the applicant:</p> <p>1) The structure cannot be utilized for any of the uses normally permitted within that district; and</p> <p>2) The proposed use will not alter the historic features documented at the time of Register placement; and</p> <p>3) Provisions have been made to safeguard the adjoining properties and the neighborhood against any detrimental effects that might result from allowing the proposed use, subject to the requirements in 18.48.040, Additional Conditions.</p> <p>B. Discontinuation</p> <p>1. Except as provided by OMC 18.34.920(A), a nonconforming use, when abandoned or discontinued, shall not be resumed.</p> <p>Discontinuation or abandonment occurs under any of the following:</p> <p>a. When land used for a nonconforming use shall cease to be used for that particular use for twelve (12) consecutive months; or</p> <p>b. When a building designed or arranged for a nonconforming use shall cease to be used</p>	<p><i>Similarly, subsection B is redundant with the OMC referenced in subsection (A) above and does not need to be repeated.</i></p>

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					<p>for that particular use for twelve (12) consecutive months; or c. When a building designed or arranged for a conforming use but used for a nonconforming use shall cease to be used for such nonconforming use for twelve (12) consecutive months. 2. The Hearing Examiner may, by conditional use permit, allow a discontinued or abandoned use to resume operations if it can be proven that all of the following conditions exist: a. That discontinuation or abandonment was caused by a condition over which the owner and operator of such use had no control; and b. That it is impossible for the owner to change the use of the premises to a permitted use without causing a hardship to himself; and c. That resumption of the nonconforming use will not have a detrimental effect on surrounding properties.</p> <p><u>3.83 18.34.930 – Existing Nonconforming Shoreline Lots</u> <u>An undeveloped lot, tract, parcel, site or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the Shoreline Master Program which does not conform to the present lot size standards of the Program may be developed if the lot conforms with OMC 18.70.080 and the development conforms to all other requirements of the Master Program.</u></p>	<p><i>As an alternative to Ecology's recommended change that would recognize nonconforming lots in section 3.82, for clarity the City proposes this new section specific to nonconforming shoreline lots.</i></p> <p><i>Ecology supports the City's proposed alternative language. The language is of a clarifying nature and remains consistent with the purpose and intent of Ecology's original changes, the scope of the locally adopted SMP, RCW 90.58 and WAC 173-26.</i></p>