

The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III)

ITEM	SMP PROVISION	TOPIC	Bill Format Changes [<u>underline</u> -additions; strike through -deletions]	ECOLOGY - DISCUSSION/RATIONALE
A	Table of Contents Page vi	Appendices	Appendices <u>C. Critical Areas and Floodplain Overlay Ordinances (Tumwater Municipal Code Titles 16.20, 16.24, 16.28, 16.32 and 18.38), effective [insert date], ordinance No. O2012-005.</u>	<i>This change is required so that the critical areas and floodplain overlay ordinances being incorporated by reference are physically attached to and a part of the SMP. WAC 173-26-191 (2)(a)(ii)(A). City Council will adopt Ordinance No O2012-005 at the same time it adopts the State approved SMP, and the effective date of that Ordinance will be inserted in this reference.</i>
B	General Provisions 1.7 (F) Page 5	Relationship to Other Land Use Regulations	Critical areas including frequently flooded areas, wetlands, <u>aquifer protection areas</u> , fish and wildlife habitats and geologically hazardous areas that are located within shoreline jurisdiction are regulated by this Program as detailed in Section 5.2. If there are any conflicts between the Program and the critical areas regulations, the requirements of the Program apply.	<i>This change is required for consistency with RCW 90.58.610 and RCW 36.70A.480, which outline that once a Shoreline Master Program is comprehensively updated, critical areas as defined by RCW within shoreline jurisdiction are regulated solely by the SMP. Critical areas, as defined in RCW 36.70A.030 (5), include "areas with a critical recharging effect on aquifers used for potable water".</i>
C	General Provisions 1.11 Page 6	Effective Date	This Program and all amendments thereto shall become effective <u>fourteen days from the date of written notice of final action</u> immediately upon final approval and adoption by the Washington State Department of Ecology.	<i>This change is required for consistency with RCW 90.58.090 (7) regarding effective dates.</i>
D	Shoreline Permits 2.1 Page 7	General Provisions	<u>E. Consideration shall be given to the cumulative impact of additional requests for similar actions in the shoreline vicinity. For example, if shoreline permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.</u>	<i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. This change is also required under WAC 173-27-160 (3) and WAC 173-27-170 (4), which require consideration of cumulative impacts for conditional use and variance requests. The City had included this requirement in section 2.2 (substantial development permits) but not in the sections regarding conditional use and variance permits. This change would move this provision to the General Provisions section, therefore applying it to all types of shoreline permits.</i>
E	Shoreline Permits 2.2 Page 8	Shoreline Substantial Development Permits	3. Consideration shall be given to the cumulative impact of additional requests for similar actions in the shoreline vicinity. For example, if shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.	<i>This change is required in association with item D above.</i>
F	Shoreline Permits 2.5 Page 10	Shoreline Exemptions	E. Exemptions listed. The following shall be considered exempt from the requirement to obtain a shoreline substantial development permit in accordance with RCW 90.58.030 and WAC 173-27-040, or their successors. <u>The list below is a summary of common exemptions that may occur within the City's shorelines; a complete list of exemptions is provided in WAC 173-27-040.</u>	<i>This change is required to articulate that the exemption statements in WAC 173-27-040 (2) are more comprehensive and detailed than those inserted in the SMP, and that those listed in the SMP can be considered a summary.</i>
G	Shoreline Permits 2.7 Page 13	Permit Process	2.7 Permit Process The Administrator can help determine if a project is classified as a substantial development, determine if a permit is necessary or if a project is exempt from the permit requirements, and identify which regulations in the Program may apply to the proposed	<i>The first change is required in accordance with WAC 173-26-140. The second change is required in accordance with WAC 173-27-110 (2)(e) and RCW 90.58.140 (4)(c).</i>

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			<p>project. <u>In development of any procedures for and/or administrative interpretations of the Master Program, the City shall consult with the Department of Ecology to insure any formal written interpretation is consistent with the purpose and intent of the Shoreline Management Act and the Shoreline Master Program Guidelines.</u> The Administrator can also provide information on the permit application process and how the Program relates to, and can coordinate with, the State Environmental Policy Act (SEPA). Permit applications are reviewed and processed pursuant to Title 14 TMC, Development Code Administration. <u>However, public comment periods established under TMC 14.06.010 (C) (5) shall not be less than 30 days following the date of the notice of application.</u></p>																									
H	Shoreline Permits 2.8 Page 13	New section: Permit Revisions	<p>2.8 Permit Revisions <u>Any shoreline permit revisions must comply with the revision approval criteria in WAC 173-27-100.</u></p> <p>2.8 2.9 Inspections Pursuant to RCW 90.58.200, the Administrator may enter the subject property to enforce the provisions of this Program during business hours. Entry shall be at reasonable times.</p> <p>2.9 2.10 Penalties and Enforcement The Shoreline Management Act imposes significant penalties for violation of the Act and this Program. A violation constitutes a gross misdemeanor, which is punishable by fine or imprisonment (RCW 90.58.220). In addition to the criminal penalty, the Act imposes liability on any person violating the Act or conditions of a permit for all damage to public or private property resulting from the violation. Furthermore, if liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney’s fees and costs of the suit to the prevailing party. (RCW 90.58.230). Violations are also subject to TMC 1.10, Civil Enforcement of Code.</p>	<p><i>This change is required for consistency with WAC 173-26-191 (2)(A)(iii)(C) – Administrative permit review and enforcement procedures.</i></p>																								
I	Table of Uses and Activities by Shoreline Environment Designation 3.14 Page 22	Industrial	<table border="1"> <thead> <tr> <th data-bbox="585 1089 782 1162">Industrial</th> <th data-bbox="782 1089 924 1162">Urban Intensity</th> <th data-bbox="924 1089 1083 1162">Shoreline Residential</th> <th data-bbox="1083 1089 1266 1162">Urban Conservancy</th> <th data-bbox="1266 1089 1427 1162">Natural</th> <th data-bbox="1427 1089 1572 1162">Aquatic</th> </tr> </thead> <tbody> <tr> <td data-bbox="585 1162 782 1227">• Water-dependent</td> <td data-bbox="782 1162 924 1227">P</td> <td data-bbox="924 1162 1083 1227">X</td> <td data-bbox="1083 1162 1266 1227">C</td> <td data-bbox="1266 1162 1427 1227">X</td> <td data-bbox="1427 1162 1572 1227">C*</td> </tr> <tr> <td data-bbox="585 1227 782 1292">• Water-related</td> <td data-bbox="782 1227 924 1292">P</td> <td data-bbox="924 1227 1083 1292">X</td> <td data-bbox="1083 1227 1266 1292">C⁶</td> <td data-bbox="1266 1227 1427 1292">X</td> <td data-bbox="1427 1227 1572 1292">C* X</td> </tr> <tr> <td data-bbox="585 1292 782 1357">• Non water-oriented</td> <td data-bbox="782 1292 924 1357">C</td> <td data-bbox="924 1292 1083 1357">X</td> <td data-bbox="1083 1292 1266 1357">X⁸</td> <td data-bbox="1266 1292 1427 1357">X</td> <td data-bbox="1427 1292 1572 1357">X</td> </tr> </tbody> </table>	Industrial	Urban Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic	• Water-dependent	P	X	C	X	C*	• Water-related	P	X	C ⁶	X	C* X	• Non water-oriented	C	X	X ⁸	X	X	<p><i>This change is required for internal consistency. The aquatic management policies in section 3.6 (C) state that new over water structures should be allowed only for water dependent uses, public access or ecological restoration. Additionally, section 7.7 (B) (7) states that new over-the-water buildings for non water-dependent industrial uses are prohibited.</i></p>
Industrial	Urban Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic																							
• Water-dependent	P	X	C	X	C*																							
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• Non water-oriented	C	X	X ⁸	X	X																							
J	Table of Uses and Activities by Shoreline Environment	Footnotes	<p>8 = See Section 5.2(B)(1314)(c) for exception, which will require a Shoreline Conditional Use Permit</p>	<p><i>This change required to reflect required change R below.</i></p>																								

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K	Table of Uses and Activities by Shoreline Environment Designation 3.14 Page 23	Transportation	<table border="1"> <thead> <tr> <th>Transportation</th> <th>Urban Intensity</th> <th>Shoreline Residential</th> <th>Urban Conservancy</th> <th>Natural</th> <th>Aquatic</th> </tr> </thead> <tbody> <tr> <td>• Roads and Railroads</td> <td>P</td> <td>C¹/P²</td> <td>C¹/P²</td> <td>C³</td> <td>C*</td> </tr> <tr> <td>• Shared-Use Path/Trail</td> <td>P</td> <td>P</td> <td>P</td> <td>P</td> <td>P</td> </tr> </tbody> </table>	Transportation	Urban Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic	• Roads and Railroads	P	C ¹ /P ²	C ¹ /P ²	C ³	C*	• Shared-Use Path/Trail	P	P	P	P	P	These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The SMP addresses and defines shared use paths and trails in Section 7.9 (Recreation, Water Enjoyment) not in Section 7.12 (Transportation).
Transportation	Urban Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic																	
• Roads and Railroads	P	C ¹ /P ²	C ¹ /P ²	C ³	C*																	
• Shared-Use Path/Trail	P	P	P	P	P																	
L	Table of Regulations 3.15 Page 24	Table of Regulations	<p><i>Important Note:</i> Critical area buffers apply to all shorelines regulated by this Program. Refer to Section 5.2 (Critical Areas and Shoreline Vegetation Conservation). Critical areas regulations impose buffer requirements that are established on a case-by-case basis and will require a plan prepared by a qualified professional. The Ordinary High Water Mark (OHWM) setbacks prescribed below apply to water-oriented uses (i.e. water-dependent, water-related and water enjoyment uses) that may be allowed within the critical area buffer per Section 5.2(B)(1314). The purpose of the setback is to ensure that a separation exists between water-oriented uses and the shoreline.</p> <p>Proponents of new or expanded buildings or structures exceeding 35' in height above average grade level may be required to conduct a view analysis if the Administrator determines that such building could obstruct the view of a substantial number of residences.</p>	<p>The first change is required to reflect required change R below.</p> <p>The second change is required for consistency with RCW 90.58.320.</p>																		
M	Table of Regulations 3.15 Page 24	Footnotes	* = Use must be located outside of the Critical area buffer. See Section 5.2(B)(1314) Certain exceptions apply.	This change required to reflect required change R below.																		
N	Table of Regulations 3.15 Page 25	Footnotes	4 = A shared use path/trail or a pedestrian path/trail may locate closer than 50' from the OHWM if the use complies with the applicable development regulations in Section 5.2(B)(1314) * = Use must be located outside of the Critical area buffer. See Section 5.2(B)(1314) Certain exceptions apply.	These two changes are required to reflect required change R below.																		
O	Critical Areas and Shoreline Vegetation Conservation 5.2 Page 35	Regulations	2. The following regulations of the TMC pertaining to the protection of critical areas shall be adopted as a part of this Program. a. TMC 16.20, <i>Geologically Hazardous Areas</i> (last amended by Ordinance No. O2012-005 on _____); b. TMC 16.28, <i>Wetland Protection Standards</i> (last amended by Ordinance No. O2012-005 on _____); c. TMC 16.32, <i>Fish and Wildlife Habitat Protection</i> (last amended by Ordinance No. O2012-005 on _____); and	<p>This change is required for consistency with RCW 90.58.610 and RCW 36.70A.480, which outline that once a Shoreline Master Program is comprehensively updated, critical areas as defined by RCW within shoreline jurisdiction are regulated solely by the SMP. Critical areas, as defined in RCW 36.70A.030 (5), include "areas with a critical recharging effect on aquifers used for potable water".</p> <p>City Council will adopt Ordinance No O2012-005 at the same time it adopts the State approved SMP, and the effective date of that Ordinance will be inserted in these references.</p>																		

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			<p>d. TMC 18.38, <i>Floodplain Overlay</i> (last amended by Ordinance No. O2012-005 on _____).</p> <p>e. <u>TMC 16.24, <i>Aquifer Protection Standards</i> (last amended by Ordinance No. O2012-005 on _____).</u></p>	
P	Critical Areas and Shoreline Vegetation Conservation 5.2 Page 35	Regulations	<p>3. Exceptions to the applicability of the critical areas regulations in shoreline jurisdiction are listed below.</p> <p><u>g. "Mitigation plans" (TMC 16.28.230): within shoreline jurisdiction, mitigation plans shall detail the establishment of long-term protection and management plans for compensatory mitigation sites.</u></p> <p>4. Any provision of the critical areas regulations that is not consistent with the Shoreline Management Act Chapter, 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction. <u>All critical area authorizations will be reviewed and issued as part of the shoreline permit or exemption required for the proposed use or activity. If no shoreline permit or exemption is required, the Administrator may issue an administrative determination or authorization that may include conditions in place of a critical area or wetland permit. Such determination will be processed in accordance with TMC Chapter 14.</u></p>	<p><i>The first change (addition of 3g) is required in accordance with WAC 173-26-221 (2)(i)(F)(IV), which states that SMP requirements for compensatory mitigation must include provisions for the long term protection and management of compensatory mitigation sites.</i></p> <p><i>The second change (to #4) is required to clarify that uses and activities within critical areas and their buffers in shoreline jurisdiction will be reviewed and authorized by the associated shoreline permit action and not a separate critical areas permit. For uses and activities that do not meet the definition of development, an administrative determination or authorization is reserved to implement the critical areas regulations within the SMP in shoreline jurisdiction under the Shoreline Management Act permitting scheme.</i></p>
Q	Critical Areas and Shoreline Vegetation Conservation 5.2 Page 36	Regulations	<p>7. Critical area buffers are established on a case-by-case basis and require a plan prepared by a qualified professional as prescribed in the City's critical areas regulations. Wetland buffers are set forth in TMC 16.28.0170. Fish and wildlife riparian habitat buffers which apply to streams and rivers are described in TMC 16.32.065. <u>Geologic hazard area buffers are described in TMC 16.20.057; see Appendix C.</u></p>	<p><i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i></p>
R	Critical Areas and Shoreline Vegetation Conservation 5.2 Page 36	Regulations	<p>9. Within vegetation conservation areas, no more than fifteen percent (15%) of the area with native shoreline vegetation shall be cleared; <u>except that this requirement does not apply to uses allowed in vegetation conservation areas pursuant to Section 5.2(B)(14) provided such uses are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions and complies with this Program.</u></p> <p><u>10. Removal of vegetation within vegetation conservation areas shall require a plan in coordination with the requirements of the applicable critical areas regulations and Chapter 16.08 TMC. Applications for use or development in vegetation conservation areas that are also wetland buffers shall require a mitigation plan as described in TMC 16.28.220 and 16.28.230 (Appendix C). If compensatory mitigation is required, it shall be accomplished at a ratio of at least 1.5:1. Applications for use or development in vegetation conservation areas that are also habitat or riparian habitat buffers shall address mitigation in a habitat protection plan as described in TMC 16.32.065 D and 16.32.090 (Appendix C). Such plans shall also include a description of how the proposal complies with the mitigation sequencing process outlined in Section 5.1 (B), and how mitigation areas will be monitored and maintained to ensure no net loss of shoreline ecological functions.</u></p> <p>10 <u>11.</u> The Shoreline Administrator may allow removal of vegetation exceeding that</p>	<p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. It is necessary for clarity and consistency with other provisions.</i></p> <p><i>This change (the addition of #10) is required to specify what types of plans may be necessary for clearing within vegetation conservation areas and/or critical area buffers, as well as what those plans must contain or demonstrate.</i></p>

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			<p>described above in accordance with the provisions of TMC 16.08.090 or <u>TMC 16.32.065 B</u> where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological functions than would be provided by strict application of this section.</p> <p>11 <u>12</u>. Critical area buffer regulations shall not apply to the removal of <u>noxious weeds, or aquatic weeds, and fresh water algae</u> and noxious weeds when undertaken pursuant to WAC 173-201. <u>Selective pruning of trees for safety and view protection in vegetation conservation areas may be allowed when conducted in accordance with International Society of Arboriculture ANSI pruning standards.</u></p> <p>12 <u>13</u>. In the absence of a development proposal, existing, lawfully established landscaping and gardens within a vegetation conservation <u>area or critical area</u> buffer may be maintained in its existing condition including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition, size and appearance of such areas as they existed prior to adoption of this Program, provided this does not apply to areas previously established as mitigation sites, or other areas protected via conservation easements or similar restrictive covenants.</p> <p>13 <u>14</u>. Uses listed in subsection “a” below are allowed within shoreline jurisdiction including critical areas and critical area buffers without a shoreline variance permit, and uses in subsections “b” and “c” are allowed within shoreline jurisdiction including critical area buffers without a shoreline variance permit, provided the uses comply with TMC 18.38 (Floodplain Overlay) and the City’s critical areas regulations as incorporated into this Program, and are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions and complies with this Program.</p> <p>a. Uses and activities allowed in TMC 16.28 (Wetland Protection Standards) and 16.32 (Fish and Wildlife Habitat Protection) when also allowed in the applicable shoreline environment;</p> <p>b. Water-oriented uses in all shoreline environments as allowed in Tables 3.14 and 3.15, provided that development is located, designed, constructed and operated to minimize critical area disturbance to the maximum extent feasible. These uses may be required to increase public access to the shoreline and/or restore or enhance degraded ecological functions as mitigation for impacts to shoreline resources. Such development shall not be exempt from the provisions of Section 5.1, Environmental Impact Mitigation; and</p> <p>c. Non-water-oriented uses within Shoreline Reach CAP-1, as allowed in the Tumwater Zoning Code to accommodate future use and/or redevelopment of the historic Old Brewhouse site located adjacent to the Deschutes River and the south portion of Capitol Lake. Navigability is severely limited at this site. Uses must be located, designed, constructed and operated to minimize critical area disturbance to the maximum extent feasible. These uses may be required to increase public access to the shoreline and/or restore or enhance degraded ecological functions as mitigation for</p>	<p><i>This change is required for internal consistency and clarity. This and the above change are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i></p> <p><i>This change is required in accordance with WAC 173-26-221 (5)(c).</i></p> <p><i>This change is required for internal consistency and clarity in accordance with WAC 173-26-191 (2)(a)(ii)(A).</i></p> <p><i>See below (item 5) for required change to subsection (c).</i></p>

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			<p>impacts to shoreline resources. Such development shall not be exempt from the provisions of Section 5.1, Environmental Impact Mitigation. Below is an excerpt from the City's Comprehensive Plan which describes the unique history of this property: <i>"The Old Broomhouse is seen by tens of thousands of people every day from Interstate 5 and is one of the community's most iconic structures. It has influenced the design of many new buildings in the region including Tumwater's City Hall, Fire Station, and the Library. The importance of the structure was recognized in 1978 when the property was placed on the National Register of Historic Places."</i> 14 <u>15</u>. Grading activities shall comply with TMC 15.04 (International Building Code).</p>	
S	Critical Areas and Shoreline Vegetation Conservation 5.2 Page 37	Regulations	<p>c. Nonwater-oriented uses within Shoreline Reach CAP-1, as allowed in the Tumwater Zoning Code to accommodate future use and/or redevelopment of the historic Old Broomhouse site located adjacent to the Deschutes River and the south portion of Capitol Lake. Navigability is severely limited at this site. Uses must be located, designed, constructed and operated to minimize critical area disturbance to the maximum extent feasible. <u>Nonwater-oriented uses shall not be closer to the OHWM than those existing as of the effective date of this SMP.</u> These uses may be required to increase public access to the shoreline and/or restore or enhance degraded ecological functions as mitigation for impacts to shoreline resources. Such development shall not be exempt from the provisions of Section 5.1, Environmental Impact Mitigation.</p>	<p><i>This change is required for clarity in accordance with WAC 173-26-191 (2)(a)(ii)(A). This section of the Guidelines requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The SMP was unclear when defining the setback from the OHWM for non-water oriented uses in this particular reach. This language also clarifies that any such use(s) proposing to locate closer than uses are located at the present time will require a variance.</i></p>
T	Public Access 5.3 Page 43	Regulations	<p>7 c. Trails located in vegetation conservation areas shall be constructed in accordance with Section 5.2(B)(13<u>14</u>).</p>	<p><i>This change required to reflect required change R above.</i></p>
U	Flood Hazard Reduction 5.5 Page 45	Policies and Regulations	<p>5.5 Flood Hazard Reduction <u>and Channel Migration Zones</u></p> <p>A. Policies <u>6. Limit development and shoreline modifications that would result in interference with the process of channel migration and that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with rivers and streams. Potential channel migration zones in Tumwater are outlined in the Shoreline Inventory for the Cities of Lacey, Olympia, Tumwater and their Urban Growth Areas, TRPC, June 2009, Appendix A, Figures A-7 (A) through (H).</u></p>	<p><i>This change is required to recognize where in the SMP the City addressed channel migration, which is required under WAC 173-26-221 (3)(b) and (c). The inventory and characterization indicates that various reaches of the Deschutes River within the City of Tumwater and its Urban Growth Area are subject to migration. This generally includes reaches DES-6, DES-4, DES-3, DES-2, and DES-1. These reaches have been recognized by the addition of policy 6, which points the reader to the Inventory to view the maps. There are other policies and regulations in Section 5 that address channel migration.</i></p>
V	Historical or Archaeological Resources 5.8 Page 49	Regulations	<p><u>5. Developers and/or property owners shall immediately stop work and notify the City, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation.</u></p> <p><u>6. Prior to the issuance of shoreline permits in areas documented to contain archaeological resources, an applicant shall have the project site inspected or evaluated by a professional archaeologist in coordination with affected Indian tribes.</u></p>	<p><i>These changes are required for consistency with WAC 173-26-221 (1) (c) (i) and (ii).</i></p>
W	Shoreline Stabilization 6.1 Page 53	Policies	<p>L. Prohibit structural shoreline stabilization to be located on or at the base of eroding bluffs, except where existing <u>legally established shoreline uses or primary</u> structures are threatened or nonstructural methods have been determined to be infeasible, <u>as determined by a geotechnical analysis.</u></p>	<p><i>This change is required for consistency with WAC 173-26-231 (2) (a) and WAC 173-26-231 (3) (a) (iii) (A). See recommended changes on attachment C for formatting changes affecting this provision (letter "L" is now provision #10).</i></p>

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X	Shoreline Stabilization 6.1 Page 54	Regulations	<p><u>S. New development shall be designed and located to avoid the need for shoreline stabilization to the extent feasible. Lots created through the short subdivision or subdivision process shall not require shoreline stabilization in order for reasonable development to occur, as determined by a geotechnical analysis.</u></p> <p><u>T. Any structural shoreline stabilization measures demonstrated to be necessary in accordance with the provisions in this section shall be limited to the minimum size necessary.</u></p>	<p><i>These changes are required for consistency with WAC 173-26-231 (3)(a)(iii) (A) and (E). There are two policies in the SMP speaking to the first added regulation (S), but there are no implementing regulations.</i></p> <p><i>See also recommended changes on attachment C for formatting changes affecting this provision (provisions "S" and "T" are now numbered 5 and 6).</i></p>
Y	Bulkheads 6.4 Page 58	Policies	<p>1. Locate and design residential development along shorelines so that the following shoreline stabilization projects are not necessary: filling, bulkheading and substantial grading of the site.</p>	<p><i>This change is required for consistency with WAC 173-26-231 (3) (a) (iii) (A), which is not limited to residential development.</i></p>
Z	Bulkheads 6.4 Page 58	Regulations	<p>B. Regulations Bulkheads may be allowed as listed in Table 3.16, and shall be subject to the regulations below <u>and in section 6.1.5</u>:</p>	<p><i>This change is required because the general shoreline stabilization regulations required by WAC 173-26-231 (3) (a) exist in proposed section 6.1.5 (existing section 6.1); see recommended change item P.</i></p>
AA	Bulkheads 6.4 Page 58	Regulations	<p>6. The construction of a bulkhead for the primary purpose of retaining or creating dry land is prohibited, except as allowed by the fill regulations in Section 6.8.</p> <p>7. Bulkheads are prohibited on shores where valuable geohydraulic, hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marshes and other wetlands or accretion shoreforms such as spits, hooks, bars or barrier beaches.</p> <p>8. Bulkheads are prohibited if they will cause significant erosion or beach degradation.</p> <p>9. The design of a bulkhead shall incorporate proper consideration of:</p> <ul style="list-style-type: none"> a. Data on local geophysical conditions; b. Data on stream flow, velocity and flood capacity; and c. Effects on adjacent properties. <p>10. The design and construction of bulkheads shall conform to all other applicable state agency policies and regulations including the Washington Department of Fish and Wildlife criteria governing the design of bulkheads.</p> <p>11. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of its face.</p> <p>12. Grading activities shall comply with TMC 15.04 (International Building Code).</p>	<p><i>This change is required in accordance with WAC 173-26-231 (3)(a)(iii), which outlines the conditions under which new structural shoreline stabilization is permitted. Generally, this includes protection of existing, legally established primary structures and shoreline uses, for new development when nonstructural measures are not feasible or sufficient, and to protect restoration and remediation projects. Installing bulkheads to protect fill that is being placed to replace eroded uplands is not considered restoration in this context.</i></p>
BB	Dikes, Levees and Instream Structures 6.6 Page 62	Regulations	<p>Instream Structure Regulations</p> <p>7. Instream structures shall be planned and constructed based on a state approved comprehensive flood control management plan, when available <u>and applicable</u>, and in accordance with the local National Flood Insurance Program.</p> <p>8. Instream structures <u>for flood control</u> shall be permitted only when it is demonstrated by engineering and scientific evaluations that:</p>	<p><i>These changes are required in accordance with WAC 173-26-241 (3)(g), Instream structural uses. As proposed, regulations with regard to instream structures mostly relate to flood hazards or flood control. There are other purposes instream structures may serve, and these changes reflect that this section talks specifically about flood hazards and control, while the policies and regulations in the rest of this section relating to instream structures apply more broadly.</i></p>

ITEM	SMP PROVISION	TOPIC	Bill Format Changes [<u>underline</u> -additions; striketrough -deletions]	ECOLOGY - DISCUSSION/RATIONALE
			<p>a. They are necessary to protect health/safety and/or existing development;</p> <p>b. Non-structural flood hazard reduction measures are infeasible; and</p> <p>c. Measures are consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system.</p> <p><u>13. The process of planning for and locating instream structures shall give due consideration to the full range of public interest, watershed functions and processes and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.</u></p>	
CC	Dredging 6.7 Page 66	Regulations	<u>14. Disposal of dredge material within channel migration zones is prohibited.</u>	<i>This change is required in accordance with WAC 173-26-231 (3)(f), which requires that this activity be discouraged. Lacking any criteria or evaluation measures in the SMP, Ecology has determined the activity should be prohibited. See also recommended changes on attachment C for formatting changes affecting this provision (number has changed).</i>
DD	Fill 6.8 Page 69	Regulations	<p>8. Allow the deposit of dredge fill material in water areas:</p> <p>a. For habitat improvement;</p> <p>b. For beach enhancement; or</p> <p>c. At an approved Puget Sound Dredged Disposal Analysis (PSDDA) deep water disposal site;</p> <p><u>d. For mitigation actions;</u></p> <p><u>e. For water dependent uses;</u></p> <p><u>f. For public access; or</u></p> <p><u>g. For clean up and disposal of contaminated sediments.</u></p>	<i>This change is required in accordance with WAC 173-26-231 (3)(c), which outlines the circumstances under which fill waterward of the ordinary high water mark should be allowed.</i>
EE	Piers and Docks 6.9 Page 71	Regulations	<p>B. Regulations</p> <p>Piers and docks may be allowed <u>only for water dependent uses or public access</u> as listed in Table 3.16, and shall be subject to the regulations below. <u>As used here, a dock associated with a single family residence is a water dependent use when designed and intended for access to watercraft:</u></p> <p>1. Residential moorage shall include no more than one moorage type (i.e. buoy or pier/dock) per waterfront lot.</p> <p>2. Prior to approval of a residential pier or dock, the applicant shall document why the use of a mooring buoy or shared moorage are not feasible <u>and that the pier or dock is the minimum size necessary to meet the needs of its intended use.</u></p> <p>3. Shared moorage proposed for lease to upland property owners shall be reviewed as a marina.</p>	<i>These changes are required in accordance with WAC 173-26-231 (3)(b).</i>
FF	Piers and Docks 6.9 Page 72	Regulations	<p>7. There is no maximum length and width for commercial and public piers or docks; however, the proponent must show that the size proposed is the minimum necessary <u>and except for single family residential docks, shall demonstrate that a specific need exists to support the intended water-dependent use(s).</u></p>	<i>This change is required to comply with WAC 173-26-231 (3) (b) with regard to demonstrating that need exists.</i>

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GG	Agriculture 7.2 Page 81	Regulations	<p>1. Agricultural development shall conform to applicable state and federal policies and regulations, <u>and be consistent with the shoreline environment designation in which it is proposed.</u></p> <p>2. Agricultural uses and development in support of agricultural uses shall:</p> <ul style="list-style-type: none"> i. Be located and designed to have a no net loss of ecological functions, and ii. Not have a significant adverse impact on other shoreline resources and values. <p>3. Confinement lots, feeding operations, stockpiles of manure solids and storage of noxious chemicals are prohibited in shoreline areas.</p> <p><u>4. Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to non agricultural use shall be consistent with the applicable shoreline environment designation and the regulations applicable to the proposed use.</u></p>	<p><i>The change to #1 and the addition of #4 are required for consistency with WAC 173-26-241 (3)(a)(v) and (vi).</i></p>
HH	Boating Facilities 7.4 Page 84	Regulations	<p><u>18. Boaters living in their vessels (live-aboards) are prohibited in marinas.</u></p>	<p><i>This change is required to comply with WAC 173-26-241 (3)(c)(v), which requires that the SMP contain regulations to limit the impacts to shoreline resources from boaters living in their vessels. Absent any analysis of the likelihood of this activity occurring in Tumwater or potential effects associated with such activity in Tumwater, Ecology requires this change as the use relates to boating facilities.</i></p>
II	Boating Facilities 7.4 Page 85	Regulations	<p>16. Covered moorage on dry land for commercial purposes is only permitted in marinas and must comply with the following:</p> <ul style="list-style-type: none"> a. A view corridor of not less than thirty-five (35) percent of the width of the ownership shall be maintained from the abutting street and waterway. b. The structure shall not exceed thirty five (35) feet in height. c. The structure shall be visually compatible with the surrounding environment. 	<p><i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. This regulation conflicts with building heights in table 3.15.</i></p>
JJ	Commercial 7.5 Page 86	Regulations	<p><u>4. Developments that include a mix of water-oriented and nonwater-oriented uses may be considered water-oriented for determining applicable regulations in Table 3.15; provided the City's Shoreline Administrator finds that the proposed development does give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, are dependent on a shoreline location, or enhance the public's ability to enjoy the shoreline.</u></p> <p><u>4.</u> Nonwater-oriented commercial uses shall meet at least one of the requirements below:</p> <p><u>5.</u> A water-related or water-enjoyment use shall incorporate appropriate design and operational elements so that the use meets the definition for a water-related or water-enjoyment use.</p>	<p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The SMP did not make clear whether water oriented or non-water oriented regulations in table 3.15 would apply to mixed use projects, and this language clarifies that.</i></p>
KK	Industrial 7.7 Page 87	Regulations	<p><u>3. Developments that include a mix of water-oriented and nonwater-oriented uses may be considered water-oriented for determining applicable regulations in Table 3.15; provided the City's Shoreline Administrator finds that the proposed development does give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, are dependent on a shoreline location, or enhance the public's ability to enjoy the shoreline.</u></p> <p><u>Renumber the following provisions accordingly.</u></p>	<p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The SMP did not make clear whether water oriented or non-water oriented regulations in table 3.15 would apply to mixed use projects, and this language clarifies that.</i></p>

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LL	Recreation 7.9 Page 90	Regulations	B. Regulations Recreational uses and activities may be allowed by shoreline environment designation as listed in Table 3.14, and shall be subject to the regulations of Table 3.15 and the regulations listed below. <u>Commercial recreational development shall also be consistent with the provisions for commercial development in Section 7.5:</u>	<i>This change is required for compliance with WAC 173-26-241 (3)(i).</i>
MM	Recreation 7.9 Page 92	Regulations	15. Shared use and pedestrian paths/trails may be allowed within critical areas or critical area buffers in accordance with the provisions of Section 5.2(B)(13 14).	<i>This change required to reflect required change R above.</i>
NN	Residential 7.10 Page 93	Regulations	1. The creation of new lots shall be approved if all of the following can be demonstrated: d. Potential significant adverse environmental impacts (including significant ecological impacts) can be avoided or mitigated to achieve no net loss of ecological functions <u>at full build out</u> , taking into consideration temporal loss due to development and potential adverse impacts to the environment.	<i>This change is required in accordance with WAC 173-26-241 (3)(j)(i).</i>
OO	Residential 7.10 Page 93	Regulations	<u>7. Developments that include a mix of water-oriented and nonwater-oriented uses may be considered water-oriented for determining applicable regulations in Table 3.15; provided the City's Shoreline Administrator finds that the proposed development does give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, are dependent on a shoreline location, or enhance the public's ability to enjoy the shoreline.</u>	<i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The SMP did not make clear whether water oriented or non-water oriented regulations in table 3.15 would apply to mixed use projects, and this language clarifies that.</i>
PP	Transportation 7.12 Page 94	Policies	A. Policies 1. Locate new <u>and expanded</u> arterials, freeways and railways outside of shoreline jurisdiction unless there are no feasible alternatives, <u>and where they will not impact existing or planned water dependent uses.</u>	<i>This change is required for compliance with the Guidelines at WAC 173-26-241 (3)(k), which apply to new roads and road expansions. This section of the Guidelines also requires that transportation routes not adversely impact existing or planned water dependent uses.</i>
QQ	Definitions Chapter 9 Page 109	Definitions	56. Fill. The addition of soil, sand, rock, gravel, sediment, earth retaining structure or other material to an area waterward of the OHWM, <u>in wetlands</u> , or on shorelands in a manner that raises the elevation or creates dry land.	<i>This change is required in accordance with WAC 173-26-020 (16) – the definition of fill.</i>
RR	Definitions Chapter 9 Page 111	Definitions	<u>72. Instream structures. Structures placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. Such structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.</u> <u>Renumber the following definitions accordingly.</u>	<i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i> <i>Instream structures are currently discussed mostly in the context of flood hazards or flood control. There are other purposes instream structures may serve, and addition of this definition will reflect that the policies and regulations relating to instream structures apply more broadly.</i>
SS	Definitions Chapter 9 Page 114	Definitions	<u>121. Primary structure. Primary structure means the structure associated with the principal use of the property. It may also include single family residential appurtenant structures (such as a garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses or other ancillary residential improvements that can feasibly be moved landward to prevent the threat of erosion.</u>	<i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. Because "primary structures" are referred to in Chapter 6 with regard to shoreline stabilization, a definition is needed.</i>

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			<p><u>Renumber the following definitions accordingly.</u></p>	
TT	Appendix A	Shoreline Environment Designation Maps	<p>Correct the shoreline environment designation along the east side of reach DES 6 from the south end of the Brewery Property across the Tumwater Valley Golf Course driving range.</p> 	<p><i>This change is required so that this property, which is publically owned and operated, is assigned the same environment designation as the remainder of the golf course properties (change from Urban Intensity to Urban Conservancy). The use and condition of this property also more closely aligns with the purpose, designation criteria and management policies given for the Urban Conservancy designation in the SMP. WAC 173-26-211 (4)(a).</i></p>