Attachment C:

Ecology Recommended Changes

The following changes are recommended to clarify elements of the City's updated SMP

ITEM	SMP Submittal Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	**10.3.131**	Historic, Cultural, and Educational Resources Sub-element	Development along shorelines ~~should~~ includes ~~consultation~~ planning that incorporates expertise and recommendations of~~with~~ qualified cultural resource professionals including archaeologists, historians, ~~biologists, the Washington Department of Archaeology and Historic Preservation, and the Yakama Nation~~ and tribal representation to identify cultural and historic resources that could be affected by the project; evaluate any present resources for significance; and recommend appropriate preservation strategies. ~~areas containing potentially valuable data, and to establish procedures for salvaging the data or maintaining the area in an undisturbed condition.~~	This provision was reworded based on a recommendation in a comment letter received from the Washington State Department of Archaeology and Historic Preservation.
2	**10.3.133**	Historic, Cultural, and Educational Resources Sub-element	Development ~~which~~ that would destroy archaeological, cultural and/~~-~~or historic~~al~~ sites or data ~~may~~ will be delayed for an appropriate amount of ~~reasonable~~ time as determined by the City in consultation with interested parties, that would ~~to~~ allow an~~the~~ appropriate ~~agency or organization~~entity to ~~purchase the site or to recover the data~~protect or mitigate the affected resource(s).	This provision was reworded based on a recommendation in a comment letter received from the Washington State Department of Archaeology and Historic Preservation.
3	**10.3.133.1**	Histori	Establish and implement procedures that protect cultural and historic resources by	This provision was added

		c, Cultural, and Educational Resources Sub-element	designing projects to avoid impacting resources to the greatest extent possible, or identifying and implementing mitigation measures when avoidance or preservation is not possible.	based on a recommendation in a comment letter received from the Washington State Department of Archaeology and Historic Preservation. This should probably be reformatted so that it is 10.3.134, but that will require reformatting of all subsequent policies.
4	**17.01.030(C)**	Findings	C. Willow Lake and Lake Aspen are owned by homeowners associations, and Lake Aspen's residential community is governed by ~~CC&Rs~~covenants, conditions, and restrictions.	For clarity, please spell out this acronym.
5	**17.01.080**	Effective Date	~~The SMP is hereby adopted on the XX date of XX, 2013.~~ This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of approval.	To eliminate potential confusion Ecology recommends only stating when the SMP will be effective rather than including the date of local adoption.
6	**17.01.090**	Definitions	"Appurtenance, residential" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include~~s~~ a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. ~~Local circumstances may dictate additional interpretations of normal appurtenance which shall be set forth and regulated within the applicable master program.~~	To better define this term Ecology recommends adding language from WAC 173-27-040(2)(g) and deleting the last sentence as this Master Program is the applicable program and stating this provision from the WAC does not make sense in this context.
7	**17.01.090**	Definitions	"Public Trust Doctrine" is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation, and similar uses and that this trust is not invalidated by private ownership of the underlying land. The Public Trust Doctrine does not allow the	Website links can become obsolete rather quickly. The definition here is adequate and there is no need to reference this website. If you

			public to trespass over privately owned uplands to access the water. It does, however, protect public use of navigable water bodies below the ordinary high water mark. ~~See http://www.ecy/wa/gov/programs/sea/sma/laws_rules/public_trust.html~~	would still like to include a reference Ecology recommends making a broader reference to Ecology's laws and rules rather than including a specific hyperlink.
8	**17.05.020(E)**	Environmental Protection	E. Mitigation Plan. All proposed alterations to shoreline jurisdiction that will ~~may~~ have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard.	This can be interpreted as meaning that all development will need to have a mitigation plan prepared by a qualified professional. Reword to provide clarity and to ensure that not all development will necessarily need to prepare a mitigation plan.
9	**17.07.130(G)**	Shoreline Stabilization	~~G. Additional Shoreline Standards for Shoreline Stabilization. The requirements below shall apply to all shoreline stabilization activities within Shoreline jurisdiction.~~ ~~1.~~G Shoreline stabilization measures shall be designed, located, and constructed in such a manner as to minimize the disruption of natural channel characteristics. ~~2.~~H Where a geotechnical analysis or report is required, it shall meet the provisions of the definition provided in 17.01.090. ~~3.~~I Demonstration of necessity. New structural shoreline stabilization measures shall not be allowed except when necessity is demonstrated in the following manner: a. New or enlarged structural stabilization measures to protect an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shore stabilization. b. Erosion control structures in support of new nonwater-dependent	It is unnecessary to call out provision G as being additional standards and applying to all shoreline stabilization. All of the provisions under the title Shoreline Stabilization, including provisions A-G, apply to all shoreline stabilization within shoreline jurisdiction not just G. Recommend deleting this language and reformatting this section to be consistent with the other provisions of this section. There are also some editorial changes to this section; these

			development. Including single-family residences, when all of the conditions below apply: i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage. ii. Nonstructural measures, such as placing the developments farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient. iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such ~~as tidal action,~~ currents or ~~waives~~waves. c. Erosion control structures in support of water-dependent development when all of the conditions below apply: i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage. ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient. iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. d. Erosion control structures to protect projects for the restoration of ecological functions of hazardous substance remediation projects pursuant to the Model Toxics Control Act (70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that demonstrates that nonstructural measures such as planting vegetation, or installing on-site drainage improvements, is not feasible or not sufficient. ~~4.~~J. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion. For purposes of this section, “replacement” means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures. ~~5.~~K. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied	include spelling and elimination of language that is not pertinent to this SMP (e.g. tidal action).

			prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shore stabilization structure. ~~6.~~L. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.	
10	**17.07.140(D)**	Signs	D. The Shoreline Administrator may condition signage regarding size, illumination, and placement, to ensure that signage is compatible with adjacent shoreline environments and does not: 1)significantly (see definition in YMC 17.01.090) obstruct visual access to the water from public lands or a substantial number of residences per Section 17.03.080 Development Standard ~~per RCW 90.58.320~~ and shorelines hearings board case law; or 2) impair scenic vistas to the Yakima Greenway or Naches River or associated lakes; or 3) impair driver vision such as due to lines of sight, type of frequency of lighting, or other feature that has the potential to result in safety concerns.	This RCW citation refers to the 35 feet height limitation which is provided already in this SMP, recommend citing Section 17.03.080 Development Standards instead of the RCW.
11	**17.07.160(L)**	Utilities	L. ~~Additional Shoreline Standards for Utility Transmission Lines and Facilities. The requirements below shall apply to all utility transmission lines and facilities within Shoreline jurisdiction.~~ Utility services to individual projects undergoing Shoreline review, including those where the primary use may be in a different Shoreline environment than the utility service, shall not require separate Substantial Development Permits for utility service installations, but are subject to all of the provisions in this section, except those listed below. Utility service to projects outside Shoreline jurisdiction is subject to normal Shoreline permitting , and is subject to all of the provisions in this section, except those listed below	The first sentence is unnecessary because it is still part of the utilities section standards and therefore it does not need to be stated that these are additional standards. The second sentence is repetitive from the statement at the beginning of this section which states the provisions apply to all location, construction, and installation of utility transmission lines and facilities within shoreline jurisdiction. Delete to simplify and eliminate unnecessary repetitions.
12	**17.09.020(D)**	Flood Hazar	Documented Exemptions. The following uses and activities are exempt from the provisions of YMC 17.09.020, but are not exempt from this SMP (Title 17) or related	This provision was reworded based on a recommendation

		d Areas	shoreline permit requirements in Chapter 17.13: 1. ~~The~~ Any alteration ~~or substantial improvement~~ of ~~any structure~~structure building, site, structure, district, or object listed ~~on~~ in, or determined eligible for listing in, the National Register of Historic Places, the Washington Heritage Register, the Yakima Register of Historic Places, or included in a ~~or~~ state inventory of historic ~~places;~~properties; 2. The installation and maintenance of aboveground utility transmission lines and poles; and 3. Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the administrative official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse.	in a comment letter received from the Washington State Department of Archaeology and Historic Preservation.
13	**17.11.010(B)**	Nonconforming Uses	B. Nonconforming single-family residential uses that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable dimensional standards by the addition of space to the main structure of by the addition of normal appurtenances as defined in ~~WAC 173-27-040(2)(g)~~section 17.01.090 upon approval of a Shoreline Conditional Use Permit by the Hearing Examiner.	A definition for “appurtenance, residential”” is included in the definitions section of this SMP which has language that is directly derived from the WAC, recommend citing section 17.01.090 rather than using the specific WAC citation.
14	**17.13.080(B)(2)**	Shoreline Variance Permits	2. Variance permits for development and/or uses that will be located landward of the OHWM, as defined in ~~RCW 90.58.030(2)(b)~~ section 17.01.090, and/or landward of any wetland as defined in ~~RCW 90.58.030(2)(h~~ section 17.01.090~~)~~.	These RCW citations are unnecessary, the first references the definition of floodway and the second is a definition of wetlands; both of which are defined in section 17.01.090; recommend citing this SMP’s definitions which are consistent with the RCW definitions.
15	**17.13.080(B)(3)**	Shoreline Varian	3. Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in ~~RCW 90.58.030(2)(b)~~ section 17.01.090, or within any wetland as defined in ~~RCW 90.58.030(2)(h)~~ section 17.01.090, may be authorized	These RCW citations are unnecessary, the first references the definition of

		ce Permits	provided the applicant can demonstrate the following:	floodway and the second is a definition of wetlands; both of which are defined in section 17.01.090; recommend citing this SMP's definitions which are consistent with the RCW definitions.
16	**17.13.100(A)**	Initiation of Development	Authorization to begin construction. Each permit for Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) days from the date of receipt of the decision~~, except as provided in RCW 90.58.140(5)(a) and (b)~~. The date of receipt for a Substantial Development Permit means that date the applicant receives written notice from Ecology that it has received the decision. With regard to a permit for a shoreline variance or a shoreline conditional use, date of receipt means the date the City or applicant receives the written decision of Ecology.	Both of these exceptions are not applicable to the City of Yakima, the first concerns I-90 on or adjacent to Lake Washington and the second is in regard to floating bridges and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington.
17	**17.13.140**	SMP Amendments	C. The SMP may be amended annually or more frequently as needed pursuant to the Growth Management Act~~, RCW 36.70A.130(2)(a)(iii).~~	Unnecessary RCW citation, delete to simplify and eliminate potential confusion in the future when the RCW is modified.