

Attachment B: City of Mount Vernon - Ecology Required and Recommended Changes

The changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and consistent with SMA (RCW 90.58) policy and the SMP Guidelines (WAC 173-26, Part III). Note that all references to SMP Provisions are based on the proposed SMP numbering and naming conventions.

ITEM	PROVISION	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE																													
<p>Req-1 Rec-1</p>	<p>Footnote 19 – Table 3, V</p>	<p>TABLE 3, DEVELOPMENT STANDARDS:</p> <table border="1" data-bbox="478 354 1462 626"> <thead> <tr> <th rowspan="2">DEVELOPMENT STANDARDS ↓</th> <th colspan="5">Shoreline Designations:</th> </tr> <tr> <th>Aquatic</th> <th>Natural</th> <th>Urban Conservancy</th> <th>Shoreline Residential</th> <th>Urban Mixed-use</th> </tr> </thead> <tbody> <tr> <td>Residential Development:</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Setback</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td>See note 10</td> <td>See note 11</td> </tr> <tr> <td>Density (max. and min. determined by underlying zoning district ^{to 19})</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td>Max 1.24 to 7.26 du/a</td> <td>See note 19</td> </tr> </tbody> </table> <p>19. Residential density, The minimum and maximum residential density (as if applicable) is measured per in net dwelling units per acre (du/a), and in the Shoreline Residential environmental designations (Shoreline Residential and Urban Mix-use) is as follows:</p> <p>R-A zone: 1.24 du/acre (minimum 35,000 sf lot size) R-1, 3.0 zone: 3.23 du/acre (minimum 9,000 sf lot) R-1, 4.0 zone: 4.0 to 4.54 du/acre (minimum 7,500 sf lot) R-1, 5.0 zone: 4.0 to 5.73 du/acre (minimum 6,000 sf lot) R-1, 7.0 zone: 4.0 to 7.26 du/acre (minimum 4,500 sf lot)</p> <p>The above-listed minimum and maximum densities and minimum lot sizes can be deviated from when a development is permitted under Chapter 17.73 MVMC, Regulations to Encourage Affordable Housing.</p>	DEVELOPMENT STANDARDS ↓	Shoreline Designations:					Aquatic	Natural	Urban Conservancy	Shoreline Residential	Urban Mixed-use	Residential Development:						Setback	n/a	n/a	n/a	See note 10	See note 11	Density (max. and min. determined by underlying zoning district ^{to 19})	n/a	n/a	n/a	Max 1.24 to 7.26 du/a	See note 19	<p>Required Change 1 – Remove added text allowing deviation from minimum and maximum densities permitted under MVMC 17.73. A change is necessary for consistency with WAC 173-26 (SMA Guidelines).</p> <p>Under the SMA we use density, lot size, and impervious surface limits as tools to accommodate single family residential development (a priority use) while protecting the shoreline ecological functions. MVMC 17.73 includes increased min and max density, zero lot line and no min lot size standards. Also allows ADUs, duplexes and multifamily units in all zones where residential is allowed. MVMC 17.73 is implementing the City’s Comprehensive Plan Housing Element which under the authority of the GMA, not the SMA. The SMA Guidelines requires “existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans” as the basis for the SMP’s environment designation classification and provisions. The general environmental designation provisions of WAC 173-26-211 require environment-specific regulations, including density limitations specific to shoreline conditions. Pursuant to WAC 173-26-211(5)(f), standards for density within the “shoreline residential” environment shall ensure no net loss of ecological functions, taking into account the characteristics of the shoreline area, and compatibility with existing and planned uses.</p> <p>Currently, the SMP sets the maximum densities for residential development within the Shoreline Residential and Urban Mixed Use environmental designations in Table 3 of Section V. Per SMP Section V, Table 1, the program only allows <i>single-family, detached</i> residential development in the Shoreline Residential SED and <i>multi-family, attached</i> residential development can only occur in the Urban Mixed-use SED.</p>
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TABLE 1, SHORELINE USE:

SHORELINE USE ↓	Shoreline Designations:				
	Aquatic	Natural	Urban Conservancy	Shoreline Residential	Urban Mixed-use
Residential:					
Single-family, Detached	X	X	X	P	X
Multi-family, Attached	X	X	X	X	P ^{2, 15}

Notes to Table 2 and 15:

2. Public access, as approved by the City, is a condition of approval for development except (i) if such access requirement has already been satisfied pursuant to a prior transfer of property owned by the applicant (or applicant’s predecessor in interest) where such property has been used by the City to provide public access as part of a flood risk reduction project or (ii) as provided in “Public Access” section of the SMP.
15. Residential, multi-family is only allowed in the Urban Mixed-use designation between parcel 26644 and parcel P26505, inclusively (Downtown Mount Vernon) and in the Urban Mixed-use designation located in West Mount Vernon.

As supported by the City’s Shoreline Inventory and Characterization Report and pursuant to the shoreline use provisions of WAC 173-26-241(2)(j), the City established the maximum densities on the specific characteristics of the shoreline environmental designations to ensure no net loss of ecological functions. MVMC 17.73 allows increased densities beyond the range identified in the SMP. The City did not provide supporting documentation demonstrating the increased densities permitted by MVMC 17.73, when applied broadly across the designations where the SMP allows residential development, will not result in loss of ecological function or be consistent with the use prioritization of the SMA. As such, we find the City cannot apply MVMC 17.73 within shoreline jurisdiction and maintain consistency with the SMA.

Recommended Change 1 – Insert names of the SEDs where the SMP allows residential development. The term “shoreline residential” could be interpreted as synonymous with the City’s Shoreline Residential SED only, however these provisions are intended to apply in all designations where residential development, including single-family, multifamily, and subdivisions are allowed. This change creates consistency with the table and the footnote.

Rec-2	Appendix C – I.F.F.3.g.	g. Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10, March 2006 April 2021 , Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1 Version 2) Washington State Department of Ecology Publication No. 06-06-011a 21-06-003, Olympia, WA; and Wetland Mitigation in Washington State: Part 2 – Developing Mitigation Plans Version 1, March 2006, Publication #06-06-011b ; and	<p>Recommended Change 2 – Update references to Ecology Wetland Mitigation Guidance to reflect current version and both parts.</p> <p>A comment received by the City cites concern the City’s adoption of the hydrogeomorphic (HGM) functional assessment and the use of outdated Ecology guidance. This revision updates references to all current and applicable Ecology wetland guidance.</p>
Req-2	Appendix C – VII. Wetlands Subsection E. Development Standards	<p>1. Activities may only be permitted in a wetland if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland.</p> <p>2. Activities and uses shall be prohibited are not allowed within wetlands or wetland buffers, unless authorized consistent with applicable SMP standards in wetlands except as provided herein.</p> <p>3. Category I wetlands: Category I wetlands: Activities and uses shall be prohibited in Category I wetlands, except as provided for in the public agency and utility exception, and variance sections of the MVMC for road/street repair and construction (Appendix C - II.F) and utilities (Appendix C – II.G) projects, may be allowed when demonstrated to comply with the SMP or authorized through the variance provisions in SMP Section III.D.</p> <p>4. Category II, and III, and IV and III, and IV wetlands: With respect to activities proposed in Category II, and III, and IV and III, and IV wetlands, the following standards shall apply:</p> <p>a. Water-dependent activities may be allowed where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers, and other wetlands.</p> <p>b. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited are not allowed, unless the applicant demonstrates that:</p> <p>i. The basic project purpose cannot reasonably be accomplished by successfully avoiding the wetland, or result in less adverse impact on a wetland on another site or sites in the general region;</p> <p>ii. All alternative designs of the project as proposed that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible; and</p>	<p>Required Change 2 – Changes are required for consistency with WAC 173-26-221(2) critical areas, WAC 173-26-221(2)(c)(i) Wetlands, RCW 90.58.140, and Chapter 173-27 WAC.</p> <p>The term “prohibitions” has a unique meaning under the SMA. To avoid confusion; replace “shall be prohibited” with “are not allowed” where used in provisions VII.E.2-4.</p> <p>Remove exception and permitting language from provision VII.E.3, reverting back to the intent of the City originally revision during initial determination. A change is necessary for consistency with RCW 90.58.140 and WAC 173-27. This change defers to the shoreline uses for the applicable shoreline environments, as shown in Table 1 of Chapter 5 of the SMP. Where provisions relate to reasonable use, a shoreline variance is the appropriate mechanism to grant relief. This change eliminates confusion over which variance criteria apply to development within shoreline jurisdiction. Furthermore, the allowances outlined in Appendix C apply to activities and uses with all wetland categories, so the reference to just Category I wetlands has been removed. Revise language in provision VII.E.3 to reference the variance provisions of the SMP.</p> <p>WAC 173-26-221 establishes that Ecology’s role in reviewing SMP provisions for critical areas is based upon the guidelines in WAC 173-26 and that the objective of SMP critical areas provisions shall be the protection of existing ecological functions and ecosystem-wide processes. Ecology finds that the provisions contained within VII.E.4 and 5 do not provide adequate protection for Category II, III or IV wetlands because they allow wetland impacts without proper application of the full range of mitigation sequencing options and</p>

		<p>iii. Full compensation for the acreage and loss functions will be provided under the terms established under sections (G)(6) and (G)(7) below.</p> <p>5. Category IV wetlands: <u>Other A</u> activities and uses that result in unavoidable and necessary impacts may <u>only</u> be permitted in Category IV wetlands and associated buffers <u>through a shoreline variance</u>, in accordance with an approved wetland report and mitigation plan, if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the acreage and loss functions will be provided under the terms established under sections (G)(6) and (G)(7) below.</p>	<p>irrespective of the use prioritizes of the SMA. As modified by the required changes proposed, the provisions will protect wetland and shoreline functions while identifying the shoreline variance process as the appropriate mechanism for relief, when necessary.</p>
Rec-3	<p>VII.I.2.b VII.I.3.a</p>	<p>2.b. Within the City of Mount Vernon, In-stream structures should be allowed only for the purposes of environmental restoration, and maintaining the existing bridges crossing the Skagit River, and Sstormwater management facilities, such as flood gates and culverts, can be permitted in cases where the City finds these facilities are necessary, essential, and there are no other less impactful means, methods or facilities that can be used/installed.</p> <p>3.a. Unless specifically allowed elsewhere in the SMP, in-stream structures are permitted only for the purposes of environmental restoration and bridge maintenance. <u>Stormwater management facilities can be permitted in cases where the City finds these facilities are necessary, essential, and there are no other less impactful means, methods or facilities that can be used/installed.</u></p>	<p>Recommended Change 3 – Revise language to capture more appropriate policy and regulation format. Policies communicate rules, principles, guidelines or frameworks that local governments adopt or design to achieve long-term goals. Whereas regulations communicate a directive or rule.</p> <p>We recommend removing examples (i.e. flood gates and culverts) to allow flexibility for determining need of stormwater management facilities on a case-by-case basis.</p>