**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.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PROVISION</th>
<th>BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)</th>
<th>RATIONALE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Req-1</td>
<td>Footnote 19 – Table 3, V</td>
<td>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).</td>
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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.

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 single-family, detached residential development in the Shoreline Residential SED and multi-family, attached residential development can only occur in the Urban Mixed-use SED.

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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:

- **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)

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.
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.
### Appendix C – VII. Wetlands

#### Subsection E. Development Standards

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.

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.**

3. **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.**

4. **Category II, III, and IV wetlands:** With respect to activities proposed in Category II, III, and IV wetlands, the following standards shall apply:
   - 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.
   - 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:
     - 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;
     - 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

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**Recommended Change 2 – Update references to Ecology Wetland Mitigation Guidance to reflect current version and both parts.**

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.

**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.**

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.

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.

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
<table>
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<td><strong>ii.</strong> Full compensation for the acreage and loss functions will be provided under the terms established under sections (G)(6) and (G)(7) below.</td>
<td>5. <strong>Category IV wetlands:</strong> Other activities and uses that result in unavoidable and necessary impacts may only be permitted in Category IV wetlands and associated buffers through a shoreline variance, 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.</td>
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<td>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.</td>
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| 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 stormwater 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. | 3.a. Unless specifically allowed elsewhere in the SMP, in-stream structures are permitted only for the purposes of environmental restoration and bridge maintenance, 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. | **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. 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. |