

Attachment B: City of Sumner Shoreline Master Program Periodic Review Amendment

Ecology Required and Recommended Changes

The changes in **red are required** to comply 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).

Item	Citation/ Subject	Changes: Strikethrough indicates a deletion of text and <u>underline</u> indicates an addition of text.	Rationale
1	Chapter 7, XV/ Residential Development Regulations	The maximum height above average grade level of any residential structure shall not exceed 35 feet and must be in compliance with the underlying zoning district. <u>Except that buildings within the Urban shoreline designation shall be permitted for a maximum building height of 80 feet when they are within the Town Center Plan Area and consistent with Chapter 4 Maximum Building Height.</u>	RECOMMENDED CHANGE: Consistency with the change proposed for the height limitation within the Town Center Overlay.
2	Chapter 4, Table 4-8, footnote	<u>8 Buildings within the Town Center Plan Area may exceed the 35 foot height limit up to a maximum height of 80 feet, all others buildings within the Urban shoreline designation shall be subject to the 35 foot height limit.</u>	RECOMMENDED CHANGE: To clarify the intent and for ease of implementation.
3	Entire SMP, Formatting	Final corrections to the Table of Contents and, the addition of citations to incorporate alphanumeric formatting to chapters that do not conform to the roman numeral system.	RECOMMENDED CHANGES: Recommended for clarity and comprehension of the SMP
4	Chapter 6 VII, Critical Areas Protection	<p>VII. Critical Areas Protection</p> <p><u>Definition</u></p> <p><u>Critical Areas: Those areas established as volcanic hazard areas, wetlands, flood hazard areas, fish and wildlife habitat areas, seismic hazard areas, landslide hazard areas, erosion hazard areas, and aquifer recharge areas.</u></p> <p><u>Critical Areas Protection Policies</u></p> <p><u>1) Shoreline developments that protect and/or contribute to the long-term restoration of shoreline ecological functions and processes are consistent with the fundamental goals of this Master Program. Shoreline developments that propose to enhance critical areas, other natural characteristics, or resources of the shoreline are also consistent with the fundamental goals of this Master Program, and should be encouraged.</u></p> <p><u>2) Unique, rare, and fragile natural and manmade features as well as scenic vistas, and wildlife habitats should be preserved and protected.</u></p> <p><u>3) The diversity of aquatic life, wildlife, and habitat within the shoreline should be enhanced.</u></p> <p><u>4) Conserve and maintain designated open spaces for ecological reasons and for educational and recreational purposes.</u></p>	<p>REQUIRED CHANGE: Retention of the policies and regulations found in Chapter 6.V.II. of the Sumner SMP in conformance with WAC 173-26-221(2), <i>Critical areas</i>.</p> <p>RECOMMENDED CHANGE: Retention of the definition for consistency with other sections of the master program, which contain the same.</p>

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		<p><u>5) Recognize that the interest and concern of the public is essential to the improvement of the environment and sponsor and support public information programs to that end.</u></p> <p><u>6) The level of public access should be appropriate to the degree of uniqueness or fragility of the geological and biological characteristics of the shoreline (e.g., wetlands, spawning areas).</u></p> <p><u>7) Intensive development of shorelines areas that are identified as hazardous or environmentally sensitive to development should be discouraged.</u></p> <p><u>Critical Areas Protection Regulations – General</u></p> <p><u>1) In general, this Master Program shall strive to protect and restore anadromous fisheries in the White (Stuck) and Puyallup Rivers.</u></p> <p><u>2) Shoreline development and uses shall not adversely affect species that are federally-listed as threatened or endangered species under the Endangered Species Act.</u></p> <p><u>3) Shoreline development and activity shall be located and conducted in a manner that minimizes impacts to existing ecological values and natural resources of the area, and conserves properly functioning conditions.</u></p> <p><u>4) Shoreline development and activity shall be scheduled to protect biological productivity and to minimize interference with fish resources including salmonid migration, spawning, and rearing activity.</u></p> <p><u>5) Shoreline activities and development projects shall minimize impacts to natural features of the shoreline as much as possible.</u></p> <p><u>6) Shoreline development and activity shall maintain the unconstrained upstream and downstream migration of both adult and juvenile anadromous and resident fish, when applicable.</u></p> <p><u>7) Gravel bars and other accretion shoreforms are valued for recreation and in some cases may provide fish spawning substrate. Therefore, developments that could disrupt these shoreforms shall be carefully evaluated and only allowed: when such disruption would not reduce shoreline ecological functions and processes; where there is a demonstrated public benefit; and where the Department of Fish and Wildlife determines there would be no significant impact to the fisheries resource.</u></p> <p><u>6.1.1. Purpose.</u></p> <p><u>The purpose of this subsection is to regulate the use of land in and around critical areas, resource lands, wildlife habitat, and natural hazard areas lying within the corporate limits of the city; to incorporate appropriate “best available science” into the regulation of critical areas, resource lands, wildlife habitat, and natural hazard areas (RCW 36.70A.172(1)); and to promote the public health, safety and general welfare in accordance with the standards established by the state and the city, and to:</u></p> <p><u>1) Protect areas of land with valuable and nonrenewable resources for future generations in a manner consistent with the current comprehensive plan until such time as a revised comprehensive plan determines the future use of such lands;</u></p> <p><u>2) Regulate development on and around critical areas in order to protect lives, property and public infrastructure;</u></p> <p><u>3) Prevent development which is incompatible with certain critical areas which are particularly susceptible to water quality, noise, and air quality impacts associated with nearby development;</u></p> <p><u>4) Establish mechanisms to inform present and future landowners of their location on or near resource or critical lands;</u></p>	
5	Chapter 6 VII.6.1.1., Critical Areas Protection	<p>SMC 16-46 – 16-56 is adopted by reference into the Shoreline Master Program with the following exceptions:</p> <p><u>5) The following regulations of the Sumner Municipal Code pertaining to the protection of critical areas shall be adopted as a part of this Program:</u></p>	<p>REQUIRED CHANGE: The specific, dated Ordinance that applies in in shoreline jurisdiction is required in conformance with WAC 173-26-201(2)(b), <i>Including other documents in a master program by reference.</i></p>

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		<ul style="list-style-type: none"> a) <u>SMC 16.46 Wetlands Protections, last amended with Ordinance 2693 in 2019;</u> b) <u>SMC 16.48 Aquifer Protection Areas, last amended with Ordinance 2439 in 2013;</u> c) <u>SMC 16.50 Landslide and Erosion Hazard Area, last amendment with Ordinance 2439 in 2013;</u> d) <u>SMC 16.52 Seismic Hazardous Areas, last amended with Ordinance 2071 in 2003;</u> e) <u>SMC 16.54 Volcanic Hazardous Areas, last amended with Ordinance 2439 in 2013; and,</u> f) <u>SMC 16.56 Wildlife Habitat Areas, last amended with Ordinance 2596S in February 2017.</u> 	
6	Chapter 6 VII, Critical Areas Protection	<p><u>6) The following sections of the above adopted critical areas protections do not apply in shoreline jurisdiction:</u></p> <ul style="list-style-type: none"> a) Exemptions found in SMC 16.46.090 <u>do not apply. Exemptions applicable in shoreline jurisdiction can be found in Chapter 8.I. A. Exemptions from Substantial Development Permit Requirements.</u> b) Review Process procedures found in SMC 16.46.135(A) <u>do not apply. In shoreline jurisdiction review process procedures can be found in Chapter 8.II. Shoreline Permit Procedures.</u> c) Standards for review found in 16.46.140(A)(3) <u>do not apply in shoreline jurisdiction. In shoreline jurisdiction reasonable use is demonstrated through the Shoreline Variance criteria in Chapter 7.III.A.</u> d) <u>Wetland buffer reductions found in SMC 16.46.150 (A)(5) and activities allowed in wetland buffers found in SMC 16.46.150(K)(2-4) do not apply.</u> e) <u>Reasonable Use allowances found in SMC 16.46.160 do not apply. In shoreline jurisdiction reasonable use is demonstrated as part of the Shoreline Variance criteria in Chapter 7.III.A.</u> f) Appeals found in <u>SMC 16.46.210 do not apply. In shoreline jurisdiction appeal procedures can be found in Chapter 8.II.F.18.</u> g) Buffer <u>Requirements Reductions</u> found in 16.56.100(E), <u>(F) and (G) do not apply. In shoreline jurisdiction allowances in the buffer can be found in Chapter 6.III. Vegetation Conservation.</u> 	<p>REQUIRED CHANGE: The excluded code is inconsistent with applicable SMA standards and must be excluded from use within shoreline jurisdiction.</p> <p>REQUIRED CHANGE: Standards for review for wetlands found in SMC 16.46.140 are required to be retained for consistency with WAC 173-26-221(2)(c)(i) <i>Wetlands</i>. Only SMC 16.46.140(A)(3) does not apply for consistency with WAC 173-27-170.</p> <p>REQUIRED CHANGE: Reductions to the buffers and allowed uses in the buffers are regulated in the SMP in Chapter 6.III. <i>Vegetation Conservation</i> in conformance with WAC 173-26-241(2) <i>General Use Provisions</i>.</p> <p>REQUIRED CHANGE: Reasonable use exceptions do not apply for conformance with WAC 173-27-170 <i>Shoreline Variance Permit Criteria</i>.</p> <p>RECOMMENDED CHANGES: Additions of language identifying alternative regulations that apply in shoreline jurisdiction provides a more comprehensive understanding to the reader.</p>
7	Chapter 6.VII/ Critical Areas General Regulations	<p><u>8. Shoreline development or uses, including the subdivision of land, shall not be established in shoreline jurisdiction when it would be reasonably foreseeable that the development or use would require structural flood hazard works for protection within the channel migration zone or the floodway.</u></p>	<p>REQUIRED CHANGE: For consistency with WAC 173-26-221(3)(c)(i) <i>Flood Hazard Reduction</i>.</p>
8	Chapter 8.II.F./ Shoreline Permit Procedures	<p>14.a Local Appeals. Any decision made by the Hearing Examiner may be appealed through the judicial system subject to the provisions for type V decisions in SMC 18.56.</p> <p><u>15 14) Filing with the Department of Ecology</u></p>	<p>REQUIRED CHANGE: For consistency with Sumner Municipal Code 18.56.160.G. the local appeal process is no longer applicable to Shoreline Permits. The judicial appeal is not to the court system, but to the Shoreline Hearings Board. See recommended change below.</p> <p>REQUIRED CHANGE: All decisions for shoreline permit decisions, regardless if they are approvals or denials, are required to be filed with Ecology for conformance with WAC 173-27-130 <i>Filing with Department</i>.</p>

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		<p>The following information shall be provided concurrently to the applicant, the Department of Ecology, and the Attorney General upon the close of the local appeal process, or where appealed upon the rendering of the final <u>decision on Shoreline Substantial development Permits, Shoreline Conditional Use Permits and Shoreline Variance Permits:</u></p> <ul style="list-style-type: none"> a. A copy of the complete application per WAC 173-27-180; b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s); c. The final decision of the City; d. The permit data sheet per WAC 173-27-990; e. Affidavit of public notice; and f. Where possible applicable the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C). The Shoreline Administrator shall provide Notice of Final Decision per SMC 18.56. <p><u>16 15) Department of Ecology Review of Variance and Conditional Use Permits.</u> After the Hearing Examiner approved <u>issues a decision for</u> a Variance or Conditional Use Permit, the Shoreline Administrator shall submit the Permit to the Department of Ecology for its approval, approval with conditions, or denial. When a Substantial Development Permit and Conditional Use <u>and/or</u> Variance Permit are required for development, the submittal on the Permits shall be made simultaneously. The Department of Ecology shall render and transmit its final decision approving, approving with conditions, or disapproving the Variance or Conditional Use Permit within thirty (30) days of filing by the City of Sumner. Filing is not complete until all the required documents have been received by the Department of Ecology and the Attorney General. Upon receipt of the Department of Ecology’s final decision the Shoreline Administrator shall notify those interested persons having requested notification of such decision.</p> <p><u>17 16)</u> Development authorized by a Variance or Conditional Use Permit shall not begin until twenty-one (21) days from the date the City receives the decision of the Department of Ecology, provided no appeal proceedings have been initiated.</p> <p><u>18 17) Washington State Department of Ecology Review.</u> Development authorized by a Shoreline Substantial Development Permit shall not begin until twenty-one (21) days from the date the Department of Ecology acknowledges in writing receipt of the Shoreline Substantial Development Permit; provided no appeals have been initiated during this twenty-one (21) day period. <u>19) Appeals to State Shorelines Hearings Board.</u> Any person aggrieved by the granting, denying, or rescinding of a Shoreline Permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the State Shorelines Hearings Board by filing a petition for review within twenty one (21) days of the date of filing. Appeals of any final permit decision may be made pursuant to the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). The request for review shall be in the form required by the rules for practice and procedure before the Shorelines Hearings Board. The person seeking review shall also file a copy of the request for review with the State Department of Ecology and the Attorney General.</p>	<p>REQUIRED CHANGE: Changes in the required documentation to be filed with Ecology for conformance with WAC 173-27-130(3) <i>Filing with Department.</i></p> <p>RECOMMENDED CHANGES: To clarify the appeal process place regulation 19 under a distinct separate heading.</p>

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		<p>i. For substantial development permits the date of filing is the day the Department of Ecology receives the City of Sumner's final decision.</p> <p>ii. For shoreline Variance and Conditional Use Permits the date of filing is the day the City of Sumner receives the Department of Ecology's final decision.</p> <p><u>18) Appeals to State Shorelines Hearings Board. Any person aggrieved by the granting, denying, or rescinding of a Shoreline Permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the State Shorelines Hearings Board by filing a petition for review within twenty-one (21) days of the date of filing. Appeals of any final permit decision may be made pursuant to the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). The request for review shall be in the form required by the rules for practice and procedure before the Shorelines Hearings Board. The person seeking review shall also file a copy of the request for review with the State Department of Ecology and the Attorney General.</u></p> <p><u>i. For substantial development permits the date of filing is the day the Department of Ecology receives the City of Sumner's final decision.</u></p> <p><u>ii. For shoreline Variance and Conditional Use Permits the date of filing is the day the City of Sumner receives the Department of Ecology's final decision.</u></p>	