



MEMORANDUM

DATE: October 3, 2013

TO: Chair Tebelius and Members of the Planning Commission

FROM: Carol Helland, Land Use Director, 425-452-2724
Mike Bergstrom, Principal Planner, 425-452-2970
Shoreline Update Team
Development Services Department

SUBJECT: Introduction of Shoreline Master Program Conformance Amendments
and Overview of the Remaining SMP Process

INTRODUCTION

On October 9, staff will present an initial set of “conformance amendments” to the Planning Commission for review and discussion. These are amendments to the Land Use Code (LUC) that will bring various sections into conformance with the Shoreline Master Program (SMP) as recommended by the Commission to Council. These amendments are not complete (they do not yet include amendments to Part 20.25H LUC – Critical Areas Overlay), because staff are still working to ensure consistency between the recommended SMP and the Critical Areas Overlay. We expect to hold two to three study sessions with the Commission to cover all of the conformance amendments. The Commission will then hold a public hearing on the amendments later this fall before making a recommendation to Council.

In addition to the conformance amendments, staff will brief the Commission on recent direction from Council and provide an overview of the remaining SMP adoption process.

BACKGROUND

In January 2013 the Commission approved its recommended amendments to the City’s Shoreline policies and Shoreline Overlay District (Part 20.25E LUC). This recommendation was presented to Council via transmittal in May 2013. In May, the City also received from the Department of Ecology (Ecology) an analysis of a pre-January 2013 draft that Ecology downloaded from the City’s project website. This analysis summarized Ecology’s conclusions with respect to that particular draft’s compliance or non-compliance with the rules governing updates to the SMP.

In July 2013, Council discussed its strategy for moving the SMP Update forward to Ecology for review and approval (Attachment 1). Council discussion emphasized three overarching themes:

1. Share information broadly, among the Council, Planning Commission, Department of Ecology, and the public;
2. Move forward expeditiously, to protect the institutional knowledge of the Planning Commission from turnover, adhere to a schedule, and secure additional consultant help if necessary; and

3. Limit the amount of rework/work duplication, while understanding any risks associated with SMP adoption and allowing Council sufficient opportunity to make any changes they feel may be necessary.

More specifically, Council gave the following direction to staff:

1. Engage Ecology, to educate and inform them about Bellevue's process, rationale, and code structure, and to narrow the scope of outstanding issues in order to help frame concerns that may require Council direction;
2. Engage the Planning Commission on the conformance amendments to the Land Use Code (including Critical Areas Overlay);
3. Engage Consultant(s) as needed to assist with risk analyses, cumulative impact analysis, and submittal process support; and
4. Engage Council with frequent check-ins, discussion of conformance Land Use Code amendments (including Critical Areas Overlay), risk evaluation, and policy choices leading up to the final submittal to Ecology.

Following the July meeting, City staff met with Ecology staff to discuss the Ecology review comments received in May. After those meetings, Ecology reviewed the January 2013 SMP draft and updated and re-issued their analysis. A summary tabulation comparing Ecology's May comments to their September comments is included as Attachment 2. The September comments are provided in their entirety as Attachment 3. As the Commission will see, several of the items that were previously identified by Ecology as "non-compliant" have been moved into the "compliant" or "TBD" categories, pending additional information and completion of the cumulative impact analysis.

Though much work has been done to date, important work remains. An SMP Update Completion Timeline has been included as Attachment 4 to guide the stakeholder engagement that was directed by Council. Of immediate interest to the Commission is the work on the LUC conformance amendments. The first draft increment of these amendments is contained in Attachment 5, and will be the main focus of our discussion on October 9. Amendments to the Critical Areas Overlay provisions will be presented at a study session in early November at the latest.

CONFORMANCE AMENDMENTS

The purpose of conformance amendments is to ensure that the adoption of one piece of legislation (in this case a new Part 20.25E LUC) does not create conflicts or inconsistencies with other existing legislation (in this case the rest of the Land Use Code). The existing code provisions are amended to bring them into conformance with the new legislation in order to allow that legislation to operate as intended.

The draft amendments contained in Attachment 5 affect a wide range of Land Use Code provisions, including Use Charts (Chapter 20.10), General Development Requirements (Chapter 20.20), Permits and Decisions (Chapter 20.30), Review and Appeal Procedures (Chapter 20.35), Administration and Enforcement (Chapter 20.40), and Definitions (Chapter 20.50). Draft amendments to Part 20.25H (Critical Areas Overlay) and any other overlay or district regulations contained in Chapter 20.25 will be presented at a future meeting to occur no later than early November. These conformance amendments contained in Attachment 5

reinforce the largely “free-standing” nature of the new Part 20.25E by referring the user to that part of the LUC for shoreline-related regulations, by clarifying what other parts of the LUC are not applicable to the Shoreline Overlay District, by correcting internal references and citations, and proposing similar clarity amendments.

Staff will be available on October 9 to introduce this item and respond to any questions you might have.

NEXT STEPS

Staff will return to the Planning Commission over the next few months to complete work on the conformance amendments. It is anticipated that the Commission will hold a public hearing and forward its recommendation to Council before the end of the year.

ATTACHMENTS

1. Council minutes from July 15, 2013
2. DOE review summary
3. DOE review checklist (September 2013)
4. SMP Update Completion Timeline
5. Draft Land Use Code conformance amendments

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

July 15, 2013
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Balducci, Chelminiak, Davidson, Stokes and Wallace

ABSENT: None.

1. Executive Session

Deputy Mayor Robertson called the meeting to order at 6:01 p.m., and declared recess to Executive Session for approximately 10 minutes to discuss one item of potential litigation.

The meeting resumed at 6:16 p.m., with Mayor Lee presiding.

2. Study Session

- (a) Strategy for moving the Shoreline Master Program (SMP) Update forward to the Department of Ecology for review and final approval

Acting City Manager Brad Miyake introduced staff's update on the Shoreline Master Program (SMP) review and approval.

Mike Brennan, Development Services Director, said staff is seeking Council direction regarding the next step for the Shoreline Master Program Update.

Carol Helland, Land Use Director, recalled that a public hearing on the initial SMP draft was held on May 25, 2011. The Planning Commission approved its final draft on January 16, 2013 and transmitted its recommendations to the Council on May 28, 2013.

Ms. Helland said the principles identified by the Council to guide the Planning Commission's work included consideration of Bellevue-appropriate regulations, neighborhood character, and a balance between regulations and property rights. Ms. Helland said the Commission's process was inclusive of many stakeholders.

Ms. Helland said additional work is needed before submitting the program document to the Washington State Department of Ecology (DOE). These include Critical Areas Ordinance

conformance amendments, general Land Use Code conformance amendments, Light Rail Overlay use requirements, a cumulative impact analysis, and the SMP Update checklist for submittal.

Mr. Brennan described three alternatives for moving forward:

1. Meet with DOE to clarify the preliminary comments provided in the DOE's May 14 letter
2. Negotiate with DOE to resolve the issues identified as non-compliant.
3. Complete the work needed for formal adoption by the Council and submit to DOE.

Responding to Councilmember Stokes, Mr. Brennan estimated that staff could move forward with work under the first alternative over the next one to two months. Staff would anticipate providing an update on those discussions in late September or early October. He explained that the City would need to complete the cumulative impact analysis, with the assistance of the consultant, before engaging in discussions with the State.

Ms. Helland said that, with alternative 1, the City would be likely to receive feedback from the State Department of Ecology in September or October. The cumulative impact analysis needs to be well developed because that is the most persuasive piece about how the code, regulations, policies, programs, and acquisition strategies for properties and parks balance and achieve the objectives of the State's guidelines. That would be consultant work for a couple of months, and funding is available. Ms. Helland said the City would need to have the anticipated code amendments thoroughly summarized, although not necessarily drafted, before entering into negotiations with DOE. Therefore, negotiations (Alternative 2) would probably not begin until October/November.

Ms. Helland said choosing alternative 3 requires going back to the Planning Commission and finishing all of the code amendments (i.e., policy, general Land Use Code, and Critical Areas Ordinance conformance amendments). The Planning Commission would begin that work in September and it would extend over several months, most likely into early 2014. The cumulative impact analysis would then be completed for the full package by the consultant.

Deputy Mayor Robertson observed that, under all alternatives, the City would need to complete the conformance amendments, cumulative impact analysis, and DOE checklist before Council approval and submittal to the DOE. Responding to Ms. Robertson, Ms. Helland estimated that all work would be completed by the end of 2014 under alternative 2. Staff would conduct early negotiations and might be able to shorten that time. However, staff anticipates there will be iterative changes leading to final approval. Ms. Helland said the question is whether the City does extensive code drafting initially and again upon the conclusion of negotiations, or whether code drafting occurs once. She reminded the Council that the last 10 percent of code drafting is time-consuming.

Responding to Ms. Robertson, Mr. Brennan said that if formal adoption and submittal to the DOE does not achieve DOE approval, there will be a process for responding to issues for further refinement. He noted this is the typical process with the DOE.

Councilmember Stokes said he sees these as a continuum. If the City submits the plan to the DOE now, without additional work, the DOE will give a formal response and will likely have a number of concerns. He observed that it would be more effective to obtain additional feedback from DOE while also doing some of this other work at the same time. He suggested working collaboratively with the State, as the City did with Sound Transit on light rail. Mr. Stokes suggested a combination of the three alternatives.

Councilmember Chelminiak referred to the May 14, 2013 letter of response from the DOE, which highlights a number of issues of concern and non-compliance. He questioned how much of DOE's input might be negotiable.

Ms. Helland estimated that approximately one-third would be relatively routine or require only providing clarification or additional information. However, there are topics of key importance to the DOE that might take somewhat significant time to address.

Mr. Chelminiak concurred with Mr. Stokes' suggestion about a hybrid approach including education and negotiation. He said negotiation implies making a deal, and he is not ready to give staff that direction without Council weighing in on what should be in the deal. He suggested wording it as constructive engagement with the DOE which clarifies the City's program as forwarded by the Planning Commission and resolves as many issues as possible fairly soon. Mr. Chelminiak said he was hoping for a mid-September to early October timeframe.

Mr. Chelminiak said he would like to see a risk assessment presented to the City Council that identifies and evaluates the more difficult issues from both a scientific and a legal standpoint. He would prefer to have that presentation and discussion in September.

Councilmember Davidson observed that the response from the DOE is so broad, and he would like to request more information on their more specific issues and concerns about Bellevue's draft SMP plan. Then the Council could discuss those issues with staff and develop a strategy.

Deputy Mayor Robertson said a Shoreline Master Program is meant to include the shoreline master plan, programmatic activities by the City, cumulative impact analysis, and the required DOE checklist. There is a prescribed process to package the documents and submit them to the DOE. She observed that, regardless of the degree to which the package protects the environment, the DOE will have extensive comments and requested changes. In her review of the DOE comments, she opined that approximately six are substantive comments. She said the majority are superficial comments, and the DOE specifically states that it does not want those to sidetrack the City's process. She said the DOE cannot truly give meaningful comments until they have the package. The cumulative impacts analysis is a key component of the package that includes all of the City's programmatic measures that protect the environment. However, they are not specifically listed in the DOE's criteria.

Ms. Robertson said the City's process to produce a draft plan has been going on for four years. She would like to wrap up the SMP before the Planning Commission loses Commissioner Ferris next May. She believes the City needs to move forward now with drafting the conformance

amendments. Ms. Robertson said she is concerned about closed door negotiations with the DOE before the full package is compiled. The City's work to date has been an open, public process.

Deputy Mayor Robertson said the time to negotiate will be when the City completes the formal process with the DOE. At that time, the full package will be available for review and evaluation. She would like to hire a consultant with expertise in taking a Shoreline Master Program through the DOE's process. She reiterated the importance of wrapping up this work with the current Planning Commission and taking advantage of that history and institutional knowledge.

She concurred with Mr. Stokes' suggestion about moving forward with a combination of the alternatives. She acknowledged that it will take nine to 10 months to prepare the entire package. During that time, she would like staff and an expert consultant working with the DOE to educate them about the City's plan. She said the DOE cannot effectively review the plan without the cumulative impacts analysis. She suggested moving forward with Alternatives 1 and 3. She is comfortable with the draft plan which was approved by a 7-0 vote of the Planning Commission. She believes the SMP is fair, protective of the environment, and appropriately Bellevue-specific. She acknowledged that the DOE will have additional requests and issues after the full package is submitted.

Councilmember Balducci said she is hearing, and agrees, that more information is better and that the process does not need to be strictly linear. She has never seen such a lengthy response as the DOE's letter to the City. She finds it troubling if there are many items based solely on a lack of understanding. She said it appears that communication between the DOE and the City ended at some point after 2011. She thinks communication is critical, especially with an issue involving multiple stakeholders who care greatly about the outcome. She observed that the City could have avoided some of the documented issues had communication continued. She concurred with Ms. Robertson's concerns about losing continuity in the process developing the SMP draft plan. She recalled that a reset was supported by a majority of the Council, which extended the overall process.

Ms. Balducci observed that the DOE letter indicates a disconnect between that agency's expectations and the City's draft plan. She said it is important to engage with the DOE now but that negotiations cannot move forward without more specific feedback on their concerns. She recalled the general principles underlying this work: 1) What is the City trying to accomplish?, 2) How is the City going to do that?, and 3) How will the City balance legitimate interests in preserving the environment and honoring property rights?

Ms. Balducci noted a past comment from a Planning Commissioner who questioned why shoreline property owners are being held to shoulder the full burden of stormwater runoff and water quality issues. She said the City needs to find a middle ground between that perspective and regulatory requirements. Ms. Balducci observed that the City and the DOE are relatively far apart in their opinions of the draft SMP. She is confident that a solution can be reached, however.

Councilmember Wallace said he supports alternative 3. However, he expressed frustration over the timing. He requested a more detailed response from staff about why the SMP work has gone on for so long. He noted that State law required completion and submittal by December 1, 2011;

and the amendment is due on December 1, 2019. At this pace, Mr. Wallace observed that the City will not be able to meet the amendment deadline. He suggested finding a way, including with an outside consultant, to submit the package to the DOE by the end of the year.

Councilmember Wallace said State law dictates that the City submit the plan and the DOE works with the City to finalize the package within 180 days. He observed that the SMP will potentially not be finalized with the DOE until mid-2015. He said the light rail project is slated to start construction in 2015, and he questioned how Sound Transit will be able to rely on the regulations of the SMP given that timing. Mr. Wallace stated his understanding that the City will be reviewing Sound Transit's permit application early next year.

Mr. Wallace observed that the Planning Commission's work has been a long and elaborate process with extensive public input and a unanimously approved plan. If there are elements that need to be revised, he suggested following State law by moving forward and continuing to submit formally to the DOE to resolve issues. He would like to see better information regarding a quicker completion of the process.

Councilmember Stokes reiterated his position that a combination approach to the alternatives will move things forward quicker. He noted that alternative 3 is ultimately the most important step. He respects the Planning Commission's unanimous support of the draft SMP. However, he noted that the Council needs to have as much information as possible, as soon as possible. He suggested moving forward with discussion with the DOE while also engaging the Planning Commission and working out a schedule for finalizing the package.

Deputy Mayor Robertson said that several Councilmembers have expressed an interest in more complete information. She believes the best way to do this is to start completing the package. She said the cumulative impact analysis is a key component. She agrees with Councilmember Chelminiak about getting a consultant on board either before or after submitting the plan to the DOE. She believes the City needs to do an analysis under the recent Supreme Court Koontz case to ensure the City's plan does not run afoul of that new law.

Mayor Lee said that, while the DOE will review the plan, this is the City of Bellevue's Shoreline Master Program and everything is debatable. He believes the City needs to finalize it as soon as possible. Mayor Lee said the Planning Commission has been very effective in its work. He thinks it is time to submit the plan to the DOE to enable the agency to react and respond. He agrees that collaboration is important and that any missing information should be forwarded to the DOE. He supports hiring a consultant with the technical expertise to help compile the package and to work with staff and the DOE. He would like staff to start putting the package together.

Mr. Chelminiak said he cannot support moving forward with alternative 3, which indicates that the Council approves of the current draft plan. He said the City's plan requires approval by the DOE, which is the regulatory agency. He said the Council has not had an opportunity to discuss any of the substantive issues. Mr. Chelminiak said he needs the risk assessment before he can adequately discuss the plan. The Planning Commission could resume its consideration of the plan in September or October.

→ Councilmember Stokes moved that the City Manager engage the Planning Commission to complete the required conformance amendments and to expend the consultant resources necessary to finalize remaining elements of the Shoreline Master Program Update package, for formal review by the City Council and submittal to the State Department of Ecology for review and approval. This includes staff conducting a preliminary review with the DOE in response to their May 14, 2013 letter to the City, and a discussion with the DOE regarding the contents and recommendations, and potentially narrowing the range of issues identified by the agency to be resolved through a more structured process.

Deputy Mayor Robertson seconded the motion.

Mr. Stokes said he has full confidence that staff and the DOE can begin to work through issues of concern. He encouraged moving forward expeditiously. He observed that there is general agreement that the City has spent sufficient time on this and there is too much at stake to not have a plan in place as soon as possible. He supports that the Council needs to review the plan while the Planning Commission completes additional work.

Ms. Robertson noted her expectation that the outcome of discussions with the DOE would be transmitted to the Planning Commission and the City Council. She said the entire package will go before the Council and can be amended at that time.

Responding to Ms. Robertson, Ms. Helland said the final SMP has always been completed by ordinance for Bellevue. However, some cities adopt their plan through a resolution.

Ms. Robertson spoke in favor of the motion and encouraged moving forward to work collaboratively with the DOE. At that point, she wants to have a consultant to advise the City on the final package and to assist through the formal DOE approval process. She believes this is the most expeditious and open, transparent way to complete this work.

Councilmember Davidson expressed support for the motion. He believes the SMP needs to be consistent with the Critical Areas Ordinance, which involved a great deal of the Council's and staff's time to develop.

Councilmember Balducci stated her understanding of the motion. Staff would engage with the DOE to share information and obtain feedback. At same time, the Planning Commission would start working on aspects of the full package. She expressed concern that the Commission's work will need to be duplicated later.

Mr. Brennan said there will undoubtedly be some rework involved in the parallel process stated in the motion. Staff would attempt to minimize that, and the approach of checking in with the Council and ensuring transparency will be very important in that regard.

Councilmember Balducci said the Council would like frequent updates as this moves along. She said that she personally is comfortable with receiving information in an informal manner, without staff taking extra time to provide overly formatted documents or presentations.

Ms. Balducci noted that, while staff and the Planning Commission have spent a great deal of time developing the SMP, the Council has not had extensive discussions. She does not want to rush the process at this point at the expense of the Council having adequate time for a full review. She indicated she would support the motion.

Councilmember Chelminiak said he will not support the motion. The Council's job is to review the policies and the Commission's recommendation, and that has not occurred. In the DOE's response letter, there are 39 areas in which the City is compliant (e.g., agriculture, archeology) and 101 areas in which the DOE believes the City is not compliant (e.g., critical fresh water habitat, public access to the shoreline, piers and docks, residential development).

Mr. Chelminiak believes the Council needs to take a serious look at this document before sending it to the Planning Commission for additional work. He is concerned that the result will be a great deal of duplicative work. He would like staff to come back in September/October with a presentation of the risk assessment, after discussions with the DOE and before sending the SMP back to the Planning Commission. He does not want to be in a hurry based on the rationale that the work has taken several years.

Councilmember Stokes said the Council has been provided with a great deal of information, including the May response letter from the DOE. He said all of the items will be addressed, and he encouraged support of the motion.

Deputy Mayor Robertson said she is in favor of getting a consultant on board. However, she observed that the DOE analysis is based on such an incomplete package, and the response includes six substantive comments. She believes the DOE cannot give the City a meaningful analysis and feedback based on what has been submitted so far. That is just a small part of the entire package. She would like staff and the Planning Commission to complete the package for the Council's review.

Councilmember Balducci asked that a Study Session item be scheduled in early/mid-September for an update and current risk assessment. If legal counsel advises that the City has serious and significant issues to be addressed, the Council will want to know that information.

Responding to Mayor Lee, Mr. Miyake said staff will work toward that objective.

Councilmember Wallace expressed support for the motion, the request for a risk assessment, and the Council's thorough review, and encouraged moving forward to complete this work concurrently. He would like a schedule and date of completion for the remaining work. He would like an assessment of the legal risk, particularly with regard to the Koontz decision.

→ The motion carried by a vote of 6-1, with Councilmember Chelminiak opposed.

(b) Regulation of Medical Cannabis Gardens and Recreational Marijuana-Related Uses

Mr. Miyake introduced discussion regarding permanent zoning regulations of medical cannabis gardens as well as potential zoning requirements with regard to recreational marijuana retail outlets. Staff is seeking Council direction about whether to bring forward an interim zoning regulation for recreational marijuana uses.

City Attorney Lori Riordan recalled that the Council sent interim regulations to the Planning Commission earlier this year. The Commission questioned the interplay between medical cannabis regulations and the recent legalization of recreational marijuana use. There is a widespread interest statewide about whether medical cannabis gardens will be rendered irrelevant or obsolete once retail sales begin in 2014.

Since the Planning Commission discussion in late May, the State Liquor Control Board issued two sets of draft regulations on recreational marijuana: a preliminary draft in May/June and a second draft on July 3. The Board has not addressed medical cannabis collective gardens in those rules. Ms. Riordan noted that draft regulations for recreational marijuana use are very different from regulations for medical cannabis collective gardens.

Ms. Riordan said that Liquor Control Board staff has confirmed that they believe the state legislature will need to take action on medical cannabis in order to address the discrepancies between the two statutory schemes (i.e., taxes, legal amount, and quality control). Medical marijuana is currently not taxed, and its regulations allow possession of larger quantities. Extensive quality control regulations are anticipated for recreational marijuana, including tracking from seed to sales. Until the legislature acts on medical cannabis, Liquor Control Board staff anticipates that medical cannabis collective gardens will continue to operate.

Ms. Riordan said the Planning Commission will hold a public hearing on July 24 regarding the proposed final regulations for medical cannabis collective gardens and potential zoning designations for recreational marijuana production and sales. The Liquor Control Board received more than 1,000 public comments on its initial recreational marijuana draft rules and issued a second draft on July 3. The Board issued its SEPA (State Environmental Policy Act) document as well with a public comment period extending to July 31. The Board plans to hold public hearings in early August statewide and to adopt the recreational marijuana regulations in mid-August. The rules will go into effect 30 days later (mid-September), at which time the Board intends to open up the application process for producer, processor and retail licenses.

In discussions with Board staff, they have indicated they will have in-depth discussions with operators about the scope of the licenses and tell them they must comply with local laws. However, the State will not enforce whether they actually comply with local laws. Ms. Riordan said the Board urges cities to adopt its own regulations if they want to maintain local control and to designate zoning. Ms. Riordan said retail licenses will be distributed proportionately based on the populations of cities.

Ms. Riordan advised providing confirmation from the Council to the Planning Commission to move forward with finalizing the medical cannabis regulations. Staff proposes presenting potential zoning maps during the July 24 public hearing for both medical cannabis and recreational uses for consideration and public comment. She suggested that the Council consider adopting interim regulations for recreational marijuana uses.

Ms. Riordan said staff proposes presenting draft zoning designations for Council discussion during the September 3 Study Session. If directed by the Council, staff will bring interim regulations forward on September 9 for action. If interim regulations are adopted, a hearing will be held within 60 days and the Council will be asked to provide direction to the Planning Commission to consider permanent zoning.

Ms. Riordan said the State Liquor Control Board indicated it has not received a response from the U.S. Department of Justice regarding recreational marijuana use.

Deputy Mayor Robertson said it is important to move forward with zoning in anticipation of businesses that will be applying for recreational marijuana-related licenses in mid-September. She is aware that individuals are currently seeking facilities for growing and processing marijuana.

Ms. Robertson said she supports staff's recommendation regarding medical cannabis collective gardens, which is to direct the Planning Commission to consider permanent zoning. She suggested adding streamlining and cleaning up the conflicts in regulations for the two different types of marijuana usage to next year's Legislative Agenda.

Ms. Robertson said she is concerned about pushing out other light industrial uses. She would like to discuss that further in September as the Council considers creating interim regulations for recreational marijuana production and processing.

Councilmember Davidson questioned whether, if zoning is put in place for medical collective gardens, the City can require that individuals have proper credentials for writing and filling prescriptions for drugs.

Ms. Riordan said State law for medical cannabis contemplates that patients or their designated providers operate the collective gardens. Patients must have a card authorized by a medical provider and issued by the State to receive medical marijuana, although it is not called a prescription. Ms. Riordan said that requiring certain credentials would not typically be part of a zoning regulation.

Councilmember Chelminiak said the law states that recreational retail sales cannot be within 1,000 feet of schools, playgrounds, recreation centers, child care centers, public transit centers, libraries, and arcades. He questioned whether State licenses will create some sort of property right for individuals who obtain licenses and whether the City could be required to accommodate all license holders.

Ms. Riordan said the State will not issue a license without an actual physical location for them to inspect. Ms. Riordan said Liquor Control Board staff explained to her that they will be looking at projected use, but they cannot predict how many people will apply for licenses and meet the State's criteria for a license, including securing a suitable facility.

In further response to Councilmember Chelminiak, Ms. Riordan said the State will not deny a license if the intended business location is not compliant with local zoning because the State does not want to become involved in the enforcement of local law. The State's position is that it is enough for them to state on the license that it does not guarantee an individual can actually operate a business.

Responding to Councilmember Balducci, Ms. Riordan said it is not unheard of for the City to change zoning which creates non-conforming uses for existing businesses. Those non-conforming uses typically are vested in the previous zoning. However, business license applications are not vested. Ms. Balducci said she supports moving forward as quickly as possible.

Mayor Lee concurs with moving forward as quickly as possible.

Councilmember Wallace said he supports moving forward, and he thanked staff for their work. He suggested that staff review other areas for potential Code updates that might be related to this issue including the consideration of an odor control ordinance. He noted that he voted against legalization.

Ms. Riordan said staff intends to conduct that type of Code review.

Councilmember Davidson questioned whether the Code can require that a qualified individual must write a prescription to obtain medical marijuana.

Catherine Drews, Legal Planner, said the State cannabis act requires that the medical professional who approves a medical marijuana card is a qualified healthcare professional (e.g., M.D, N.D, and nurse practitioner).

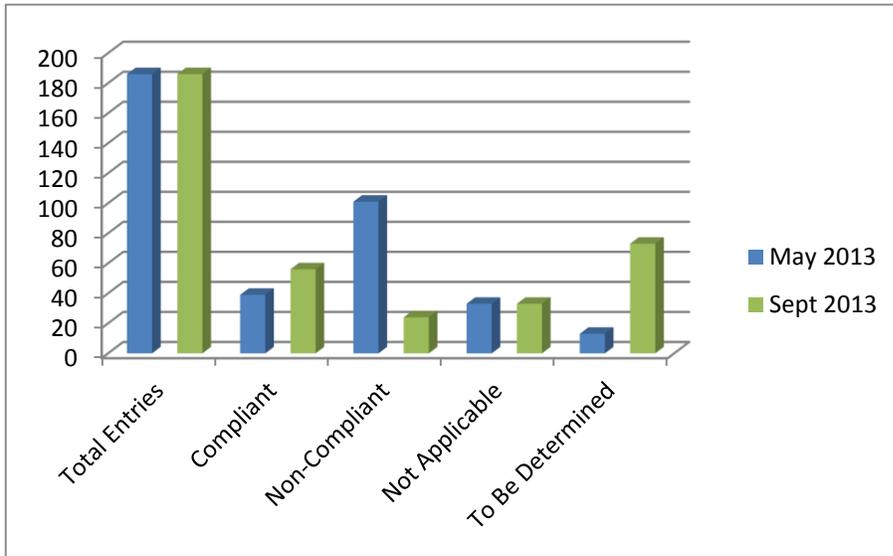
At 8:01 p.m., Mayor Lee declared recess to the Regular Session.

Myrna L. Basich, MMC
City Clerk

/kaw

**Shoreline Master Program Update
Department of Ecology Review Summary**

	Total Entries	Compliant	Non-Compliant	Not Applicable	To Be Determined
May 2013	186	39	101	33	13
Sept 2013	186	56	24	33	73
Change	0	17	(77)	0	60



SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

THIS CHECKLIST IS FOR USE BY LOCAL GOVERNMENTS TO SATISFY THE REQUIREMENTS OF WAC 173-26-201(3)(A), RELATING TO SUBMITTAL OF SHORELINE MASTER PROGRAMS (SMPs) FOR REVIEW BY THE DEPARTMENT OF ECOLOGY (ECOLOGY) UNDER CHAPTER 173-26 WAC. THE CHECKLIST DOES NOT CREATE NEW OR ADDITIONAL REQUIREMENTS BEYOND THE PROVISIONS OF THAT CHAPTER.

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INSTRUCTIONS

This checklist is intended to help in preparation and review of local shoreline master programs (SMPs). Local governments shall include a completed checklist with all locally-approved SMPs submitted to Ecology for review and approval. See WAC 173-26-201(3)(a).

Information should be provided at the top of the checklist that identifies which local jurisdiction and specific amendment (e.g. comprehensive update, environment re-designation or other topic) the checklist is submitted for, and who prepared it. Please indicate in the location column where in the SMP (or other documents) the requirement is satisfied. If adopting other regulations by reference, identify which specific adopted version of a local ordinance is being used, and attach a copy of the ordinance.

SMP submittals: For draft submittals, local governments may use the checklist’s Comments column to note any questions or concerns about proposed language. Ecology may then use the Comment field to respond as needed (see example below).

Ecology has attempted to make this checklist an accurate and concise summary of rule requirements; however, the agency must rely solely on state statutes (RCWs) and rules (WACs) when approving or denying a shoreline program. This checklist does not create new or additional requirements beyond the provisions of state laws and rules. See WAC 173-26-201(3)(a).

EXAMPLE: Use of the Comments column for a draft submittal

STATE RULE (WAC) REQUIREMENTS		COMMENTS	
High-intensity. WAC 173-26-211(5)(d)	<u>Location</u>	<i>Ecology Comment</i>	City or City Response
<p>High-intensity environment designation criteria: Areas within incorporated municipalities, “UGAs,” and “rural areas of more intense development” (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)</p>	<p><u>Urban Industrial, p. 15</u> <u>Urban Mixed, p. 18</u> <u>Also see Appendix B, Use Analysis, Chapter 3, p. 12.</u></p>	<p>Non-Compliant: <i>The referenced designation does not appear consistent with the applicable SMP-Guideline provision</i></p> <p>Required Suggested Change: <i>The SMP-Guidelines require....</i></p>	<p>High-intensity environment designation criteria: Areas within incorporated municipalities, “UGAs,” and “rural areas of more intense development” (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)</p>

<p>Acronyms and abbreviations</p> <p>comp plan: Comprehensive Plan CUP: Conditional Use Permit VAR: Variance Permit SMA: Shoreline Management Act, RCW 90.58 Guidelines: SMP Guidelines, WAC 173-26 SMP: Shoreline Master Program SSWS: Shorelines of Statewide Significance WAC: Washington Administrative Code</p>	<p>For more information</p> <p>SMA (Ch. 90.58 RCW): http://apps.leg.wa.gov/rcw/default.aspx?cite=90.58</p> <p>Guidelines (Ch. 173-26, Part III WAC): http://apps.leg.wa.gov/wac/default.aspx?cite=173-26</p> <p>Ecology’s Shoreline Planners Toolbox: www.ecy.wa.gov/programs/sea/shorelines/smp/toolbox.html</p> <p>Ecology SMA Policy Lead: Peter Skowlund: (360) 407-6522</p>
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SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

Prepared for: City of Bellevue (City)

Name of Amendment & Draft No. Comprehensive SMP-Update: [PC-May2011-DRAFT](#) and [PC-December2012_DRAFT](#)

Prepared by (include date): [Date & Name of Local Planner or Consultant]

Reviewed by (include date): *Ecology-Letter review of Inventory/Characterization (Ecology 4/21/2009), 1st-Draft Ecology-Letter review of [PC-May2011-DRAFT](#) by Dave Radabaugh (Ecology 5/25/2011) and 2nd review of [PC-December2012_DRAFT](#) by Joe Burcar (Ecology 3/2013), [Ecology update to review \(Joe Burcar\) 9/2013.](#)*

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
DOCUMENTATION OF SMP DEVELOPMENT PROCESS			
PUBLIC INVOLVEMENT, COMMUNICATION, AND COORDINATION			
Documentation of public involvement throughout SMP development process. WAC 173-26-201(3)(b)(i) and WAC 173-26-090 and 100. For SSWS, see WAC 173-26-251(3)(a).	_____	<i>TBD: (Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</i>	TBD: after SMP submittal
Documentation of communication with state agencies and affected Indian tribes throughout SMP development. WAC 173-26-201(3)(b)(ii) and (iii), WAC 173-26-100(3). For saltwater shorelines, see WAC 173-26-221(2)(c)(iii)(B). For SSWS, see WAC 173-26-251(3)(a).	_____	<i>TBD: (Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</i>	TBD after SMP submittal
Demonstration that critical areas regulations for shorelines are based on the SMA and the guidelines, and assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. WAC 173-26-221(2)(b)(ii),(iii) and (c). EHB 1653.	_____	<i>TBD: (Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</i>	TBD after SMP submittal
Documentation of process to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. See "State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property." WAC 173-26-186(5).	_____	<i>TBD: (Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</i>	TBD after SMP submittal
Final submittal includes: Evidence of local government approval; New and/or amendatory text, environment designation maps (with boundary descriptions and justification for changes based on existing development patterns, biophysical capabilities and limitations, and the goals and aspirations of the local citizenry); A summary of the proposal together with staff reports and	20.25E.010.C.2	<i>TBD: (Ecology 5/25/2011) See written comments from Ecology Environmental Planner, Dave Radabaugh.</i> <i>TBD: (Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</i>	TBD after SMP submittal

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>supporting materials; Evidence of SEPA compliance; Copies of all comments received and a record of names and addresses of interested parties involved in local processes. WAC 173-26-110. Submittal must include clear identification and transmittal of all provisions that make up the SMP. This checklist, if complete, meets this requirement. WAC 173-26-210(3)(a) and (h).</p>			
SHORELINE INVENTORY			
<p>Inventory of existing data and materials. WAC 173-26-201(3)(c)(i) through (x). Inventory of all “shorelines of the state”: Include lists and map(s) of all SMA marine, riverine, and lacustrine water bodies, including “shorelands”, “floodways”, and “floodplains”. RCW 90.58.030(2) & WAC’s 173-18-044, 173-20-044, 173-22-050, 173-26-211(b, c, d). For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(A)&(B).</p>		<p><i>TBD: (Ecology 4/21/2009) See written comments provided from Ecology shoreline Planner (Dave Radabaugh).</i></p>	<p>TBD after SMP submittal</p>
SHORELINE ANALYSIS			
<p>Characterization of shoreline ecosystems and their associated ecological functions that: Identifies ecosystem-wide processes and ecological functions; Assesses ecosystem-wide processes to determine their relationship to ecological functions; Identifies specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes. WAC 173-26-201(3)(d)(i)(A). Demonstration of how characterization was used to prepare master program policies and regulations that achieve no net loss of ecological functions necessary to support shoreline resources and to plan for restoration of impaired functions. WAC 173-26-201(3)(d)(i)(E). For vegetation, see WAC 173-26-221(5). For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(B). Description of data gaps, assumptions made and risks to ecological functions associated with SMP provisions. WAC 173-26-201(2)(a). Characterization includes maps of inventory information at appropriate scale. WAC 173-26-201(3)(c).</p>		<p><i>TBD: (Ecology 4/21/2009) See written comments provided from Ecology shoreline Planner (Dave Radabaugh).</i></p>	<p>TBD after SMP submittal</p>
<p>Use analysis estimating future demand for shoreline space and</p>	<p><u>Use Analysis</u></p>	<p><i>TBD: (Ecology 5/25/2011) See written</i></p>	<p>TBD after SMP submittal</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>potential use conflicts based on characterization of current shoreline use patterns and projected trends. Evidence that SMP ensures adequate shoreline space for projected shoreline preferred uses. Public access needs and opportunities within the jurisdiction are identified. Projections of regional economic need guide the designation of "high intensity" shoreline. WAC 173-26-201(3)(d)(ii) & (v); WAC 173-26-211(5)(d)(ii)(B)</p> <p>For SMPs that allow mining, demonstration that siting of mines is consistent with requirements of WAC 173-26-241(3)(h)(i).</p> <p><u>For shorelines of the state:</u></p> <p>Evidence the SMP preserves adequate shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance (e.g., commercial shellfish beds and navigable harbors) based on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies. <u>RCW 90.58.100</u>. Evidence that public access and recreation requirements are based on demand projections that take into account activities of state agencies and interests of the citizens to visit public shorelines with special scenic qualities or cultural or recreational opportunities. WAC 173-26-251(3)(c)(ii) & (iii).</p> <p><u>For shorelines of statewide significance:</u></p> <p>Optimum implementation directives incorporated into comp plan and development regulations. <u>RCW 90.58.100</u>. For GMA jurisdictions, SMP recreational provisions are consistent with growth projections and level-of-service standards contained in comp plan. WAC 173-26-241(3)(i).</p>	<p><u>20.25E.030</u></p>	<p><i>comment on page 2 (Item A.8 under "General Issues" from Ecology Environmental Planner, Dave Radabaugh.</i></p> <p>Required Change: <i>The above referenced comment notes the "water-dependent" use preference of the Shoreline Management Act (SMA), for which the City will need to document anticipated demand for shoreline uses and develop a rationale for the proposed SMP's prohibition of water-dependent commercial uses, except as part of marinas or yacht clubs.</i></p>	
<p>Restoration plan that:</p> <ul style="list-style-type: none"> Identifies degraded areas, impaired ecological functions, and potential restoration sites; Establishes restoration goals and priorities, including SMP goals and policies that provide for restoration of impaired ecological functions; Identifies existing restoration projects and programs; Identifies additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources; Sets timelines and benchmarks for implementing restoration projects and programs; 	<p>_____</p>	<p>TBD: <i>(Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</i></p>	<p>TBD after SMP submittal</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Provides mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals. WAC 173-26-186(8)(c); 201(2)(c)&(f).</p> <p>For critical freshwater habitats: incentives to restore water connections impeded by previous development. WAC 173-26-221(2)(c)(iv)(C)(III).</p> <p>For SSWS, identification of where natural resources of statewide importance are being diminished over time, and master programs provisions that contribute to the restoration of those resources. WAC 173-26-251(3)(b).</p>			
<p>Evidence that each environment designation is consistent with guidelines criteria [WAC 173-26-211(5)], as well as existing use pattern, the biological and physical character of the shoreline and the goals and aspirations of the community. WAC 173-26-211(2)(a). WAC 173-26-110(3).</p> <p>Lands designated as “forest lands of long-term significance” under RCW 36.70A.170 are designated either natural or rural conservancy shoreline environment designations. WAC 173-26-241(3)(e).</p> <p>For SSWS, demonstration that environment designation policies, boundaries, and use provisions implement SMA preferred use policies of RCW 90.58.020(1) through (7). WAC 173-26-251(3)(c)</p>	<p><u>20.25E.010.D</u> <u>Shoreline Policies</u> <u>SH-1 – SH-15</u></p>	<p>Non-Compliant: (Ecology 5/25/2011) See written comment on page 2 (Item A.6 under “General Issues” from Ecology Environmental Planner, Dave Radabaugh.</p> <p>Required Change: The above referenced comment notes the need to include additional required “Management Policies” for the “Aquatic” designation.</p> <p>Non-Compliant: (Ecology 3/2013) The proposed environment designations are not consistent with the referenced SMP-Guideline requirements.</p> <p>Required Change: The SMP should be amended to ensure compliance with applicable SMP-Guideline requirements.</p> <p>TBD (Ecology 9/2013) Thank you for providing the citation to applicable management policies within the updated SMP. To satisfy this SMP-Guideline requirement, the City will need to demonstrate compliance with the “Alternative SMP-Designation” criteria provide in WAC 173-26-211(4)(c).</p>	<p>CITATION: See “Shoreline Environment Designation Policies”, SH-1 – SH-15</p>
<p>Mitigation Sequencing - Assessment of how proposed policies and regulations cause, avoid, minimize and mitigate cumulative impacts to achieve no net loss. Include policies and regulations that address platting or subdividing of property, laying of utilities, and mapping of</p>	<p><u>20.25E.060.D</u></p>	<p>Non-Compliant: (Ecology 3/2013) The referenced provisions are not applied as general standards (i.e., applied to all shoreline actions), but rather is limited in</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>streets that establish a pattern for future development. Evaluation addresses:</p> <ul style="list-style-type: none"> (i) current circumstances affecting the shorelines and relevant natural processes; (ii) reasonably foreseeable future development and use of the shoreline (including impacts from unregulated activities, exempt development, and other incremental impacts); and (iii) beneficial effects of any established regulatory programs under other local, state, and federal laws. WAC 173-26-201(3)(d)(iii) and WAC 173-26-186(8)(d). <p>For jurisdictions with critical saltwater habitats, identification of methods for monitoring conditions and adapting management practices to new information. WAC 173-26-221(2)(c)(iii)(B).</p> <p>For SSWS, evidence that standards ensuring protection of ecological resources of statewide importance consider cumulative impacts of permitted development. WAC 173-26-251(3)(d)(i).</p>		<p><i>application to only those cases when a “mitigation plan” is required (20.25E.060.D.1), which is not consistent with SMP-Guideline requirements.</i></p> <p>Required Change: <i>Develop general standards (i.e., apply to all shoreline Uses and Modifications) to implement “mitigation sequencing” principles as required by the SMP-Guidelines.</i></p>	
SMP CONTENTS			
<p>Any goals adopted as part of the SMP are consistent with the SMA. <i>(Note: Goal statements are not required.)</i></p>	<p><u>Not Found</u> <u>Shoreline Policies</u> <u>– Page 1</u> <u>(optional)</u></p>	<p>Non-Compliant<u>Compliant:</u> <i>(Ecology 3/2013) Shoreline Goals could not be found.</i></p> <p>Suggested Change: <i>Develop Shoreline Goals consistent with the SMA (RCW 90.58.020)</i></p> <p>Compliant: <i>(Ecology 9/2013) Thank you for identifying the location of the “Goals” in the updated SMP.</i></p>	<p>CITATION: Not required, but see SMP Element Goals in policy document.</p>
<p>Policies (A) are consistent with guidelines and policies of the SMA; (B) address elements of RCW 90.58.100; (C) include policies for environment designations, accompanied by a map or physical description of designation boundaries in sufficient detail to compare with comprehensive plan land use designations; and (D) are consistent with constitutional and other legal limitations on regulation of private property. WAC 173-26-191(2)(a)(i).</p> <p>SMP implements preferred use policies of the SMA. WAC 173-26-201(2)(d).</p>	<p><u>Shoreline Policies</u> <u>SH-1 – SH-108</u> <u>Not Found</u></p>	<p>Non-Compliant<u>TBD:</u> <i>(Ecology 3/2013) A set of Shoreline Policies, consistent with SMP-Guideline requirements could not be found.</i></p> <p>Required Change: <i>Amend the SMP to include necessary Policies to satisfy this SMP-Guideline requirement.</i></p> <p>TBD: <i>(Ecology 9/2013) Thank you for identifying the location of the referenced “Policies” related to Shoreline Environment Designations and elements of RCW.58.100.</i></p> <p><i>However, questions still remain related to the draft SMP’s consistency with “preferred use” polices addressed within multiple</i></p>	<p>CITATION: See policy document (SH-1 – SH-108)</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Regulations: (A) are sufficient in scope and detail to ensure the implementation of the SMA, SMP guidelines, and SMP policies; (B) include environment designation regulations; (C) include general regulations, use regulations that address issues of concern in regard to specific uses, and shoreline modification regulations; and, (D) are consistent with constitutional and other legal limitations on the regulation of private property. WAC 173-26-191(2)(a)(ii).</p>	<p>20.25E.060.B.2 20.25E.010 - .280</p>	<p><i>sections of this checklist.</i></p> <p>Non-Compliant: (Ecology 5/25/2011) See written comment on page 2 (Item A.5 under “General Issues” from Ecology Environmental Planner, Dave Radabaugh.</p> <p>Required Change: The “rebuttable presumption” provision in the proposed SMP should be limited in application to an identified (specific) type of development and only if the presumption can be supported through analysis in the City’s Cumulative Impact Analysis (CIA).</p> <p>TBD: (Ecology 3/2013) See specific comments within applicable sections below.</p>	<p>SUBSTANTIVE</p>
<p>Height Limitation: SMP prohibits buildings and structures >35 feet in height obstructing views of residences, with exceptions. RCW 90.58.320.</p>	<p>20.25E.050.A 20.25E.050.D 20.25E.280</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p>	<p>COMPLIANT: no further work needed</p>
ENVIRONMENT DESIGNATIONS			
<p>Each environment designation includes: Purpose statements, classification criteria, management policies, and regulations (types of shoreline uses permitted, conditionally permitted, and prohibited; building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards). WAC 173-26-211(2)(4).</p>	<p>Shoreline Policies SH-1 – SH-13 20.25E.010.D (1-6)</p>	<p>Non-Compliant: (Ecology 3/2013) The referenced provisions do not appear to be consistent with the applicable SMP-Guideline requirements as they do not provide any “management policies” for individual shoreline environments.</p> <p>Further, it appears that the City have developed customized environment designations (i.e., “Urban Conservancy-Open Space, “Shoreline Residential Canal, and Recreation Boating), which need to comply with the requirements of WAC 173-26-211 (4) and (5) unless an alternative system can be shown to be more efficient in satisfying the goals of the SMA.</p> <p>Required Change: Please add “management polices (consistent with SMP-Guideline requirements for each environment designation, or clarify (with</p>	<p>CITATION: See policy document (SH-1 – SH-108)</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p><i>specific reference) how this SMP-Guideline requirement has been satisfied.</i></p> <p><i>Regarding the City's use of alternative shoreline environment designations, either within the update to the City's Cumulative Impact Assessment (CIA) or other supplemental supporting documents, the City should address how the proposed environment designations are consistent with the "Basic Requirements" required in WAC 173-26-211 (2) of the SMP-Guidelines.</i></p> <p><i>TBD (Ecology 9/2013) Thank you for providing the citation to applicable policies within the updated SMP. As referenced earlier, in order for the City to satisfy SMP-Guideline requirements, a demonstration of compliance with "Alternative SMP-Designation" standards provide in WAC 173-26-211(4)(c), will need to be prepared..</i></p>	TBD: after SMP submittal
<p>An up-to-date map accurately depicting environment designation boundaries. If necessary, include common boundary descriptions. WAC 173-26-211(2)(b); WAC 173-26-110(3).</p>	20.25E	<p>TBD: (Ecology 3/2013) after the City submits the SMP to Ecology for formal review.</p>	TBD: after SMP submittal
<p>Statement that undesignated shorelines are automatically assigned a conservancy environment designation. WAC 173-26-211(2)(e).</p>	Not found	<p>Non-CompliantTBD: (Ecology 3/2013) The draft SMP does not appear to have a provision to satisfy this SMP-Guideline requirement.</p> <p>Required Change: The City should add a new provision to satisfy this requirement.</p> <p>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</p>	MINOR EDIT
NATURAL ENVIRONMENT WAC 173-26-211(5)(a)			
<p>Designation criteria: Shorelines that are ecologically intact and performing functions that could be damaged by human activity, are of particular scientific or educational interest, or are unable to</p>	N/A	<p>N/A: (Ecology 3/2013) The SMP does not include a "natural" designation.</p>	N/A; no response needed

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
support human development without posing a safety threat. WAC 173-26-211(5)(a)(iii).			
Prohibition on new: Uses that would substantially degrade ecological functions or natural character of shoreline. WAC 173-26-211(5)(a)(ii)(A). Commercial uses; industrial uses; nonwater oriented recreation; roads, utility corridors, and parking areas. WAC 173-26-211(5)(a)(ii)(B). Development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions. WAC 173-26-211(5)(a)(ii)(G). Subdivision of property in a configuration that will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. WAC 173-26-211(5)(a)(ii)(G).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "natural" designation.	N/A; no response needed
For single family residential development: limits on density and intensity to protect ecological functions, and requirement for CUP. WAC 173-26-211(5)(a)(ii)(C).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "natural" designation.	N/A; no response needed
For commercial forestry: requirement for CUP, requirement to follow conditions of the State Forest Practices Act. WAC 173-26-211(5)(a)(ii)(D).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "natural" designation.	N/A; no response needed
For agriculture: low intensity use allowed if subject to appropriate limits or conditions to assure that the use does not expand or practices don't conflict with purpose of the designation. WAC 173-26-211(5)(a)(ii)(E).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "natural" designation.	N/A; no response needed
Low intensity public uses such as scientific, historical, cultural, educational research uses, and water-oriented recreational access allowed if ecological impacts are avoided. WAC 173-26-211(5)(a)(ii)(F).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "natural" designation.	N/A; no response needed
RURAL CONSERVANCY ENVIRONMENT WAC 173-26-211(5)(b)			
Designation criteria: areas outside municipalities or UGAs with: (A) low-intensity, resource-based uses, (B) low-intensity residential uses, (C) environmental limitations such as steep banks or floodplains, (D) high recreational or cultural value, or (E) low-	N/A	N/A: (Ecology 3/2013) The SMP does not include a "Rural Conservancy" designation.	N/A; no response needed

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
intensity water-dependent uses. WAC 173-26-211(5)(b)(iii).			
Restrictions on use and development that would degrade or permanently deplete resources . Water dependent and water enjoyment recreation facilities are preferred uses. Low intensity, water-oriented commercial and industrial uses limited to areas where those uses have located in the past or at sites that possess conditions and services to support the development. WAC 173-26-211(5)(b)(ii)(A) and (B). For SMPs that allow mining, see WAC 173-26-241(3)(h).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "Rural Conservancy" designation.	N/A; no response needed
Prohibition on new structural shoreline stabilization and flood control works except where there is documented need to protect an existing primary structure (provided mitigation is applied) or to protect ecological functions. WAC 173-26-211(5)(b)(ii)(C).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "Rural Conservancy" designation.	N/A; no response needed
Development standards for residential use that preserve existing character of the shoreline. Density, lot coverage, vegetation conservation and other provisions that ensure no net loss of shoreline ecological functions. Density or lot coverage limited to a maximum of ten percent total impervious surface area within the lot or parcel, or alternative standard that maintains the existing hydrologic character of the shoreline. (May include provisions allowing greater lot coverage for lots legally created prior to the adoption of a master program prepared under these guidelines, if lot coverage is minimized and vegetation is conserved.) WAC 173-26-211(5)(b)(ii)(D).	N/A	N/A: (Ecology 3/2013) The SMP does not include a "Rural Conservancy" designation.	N/A; no response needed
AQUATIC ENVIRONMENT WAC 173-26-211(5)(c)			
Designation criteria: Areas waterward of the ordinary high-water mark (OHWM). WAC 173-26-211(5)(c)(iii).	20.25E.10.D.1.b	Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.	COMPLIANT: no further work needed
New over-water structures: Allowed only for water-dependent uses, public access, or ecological restoration. WAC 173-26-211(5)(c)(ii)(A). Limited to the minimum necessary to support the structure's intended	Not Found SH-2, SH-21 20.25E.060.D.2.a , 20.25E.080.B.3.c , 20.25E.080.E.3.g.i 20.25E.080.E.4.c.i	Non-Generally Compliant: (Ecology 3/2013) Management Polices are not included within section 20.25E.10.D of the draft SMP. Required Change: A Management Policy to satisfy this SMP-Guideline requirement will need to be either identified or added to the	CITATION: See policy document (SH-2, SH-21); See also 20.25E.060.D.2.a (mitigation sequencing), 20.25E.080.B.3.c (breakwaters), 20.25E.080.E.3.g.i (boat ramps/launches), 20.25E.080.E.4.c.iv (non-residential

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
use. WAC 173-26-211(5)(c)(ii)(B).	v. 20.25E.070.C.3.c. i. 20.25E.070.D.3.f.i	<i>draft SMP.</i> Generally Compliant: <i>(Ecology 9/2013)</i> <i>Thank you for identifying the location of applicable provisions, which appear to generally satisfy referenced SMP-Guideline requirements.</i>	moorage), 20.25E.070.C.3.c.i (recreational facilities), 20.25E.070.D.3.f.i (bridges/culverts)
Multiple use of over-water facilities encouraged. WAC 173-26-211(5)(c)(ii)(C).	SH-90 Not Found	Non-Compliant TBD: <i>(Ecology 3/2013) Same comment as above.</i> Generally Compliant: <i>(Ecology 9/2013)</i> <i>Thank you for identifying the location of applicable provisions, which appear to generally satisfy referenced SMP-Guideline requirements.</i>	CITATION: See policy document (SH-90) and intro paragraph to Piers and Docks policies
Location and design of all developments and uses required to: Minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration. WAC 173-26-211(5)(c)(ii)(D). Prevent water quality degradation and alteration of natural hydrographic conditions. WAC 173-26-211(5)(c)(ii)(F).	SH-3, 4, 6, 16, 18, 39, 41-46, 47-52, 58, 62, 64, 70, 72, 79-82, 84-88, 93, 99, 103, 104-108) and 20.25E.070.B.2.a. , c, d, g , 20.25E.070.C.3.b. iv, c 20.25E.080.B.3.b Not Found	Non-Compliant TBD: <i>(Ecology 3/2013) Same comment as above.</i> TBD: <i>(Ecology 9/2013) Thank you for identifying the location of applicable provisions.</i> <i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	CITATION: See policy document (SH-3, 4, 6, 16, 18, 39, 41-46, 47-52, 58, 62, 64, 70, 72, 79-82, 84-88, 93, 99, 103, 104-108) and 20.25E.070.B.2.a, c, d, g (Aquaculture); 20.25E.070.C.3.b.iv, c (Recreation); 20.25E.080.B.3.b (Breakwaters)
Uses that adversely impact ecological functions of critical saltwater and freshwater habitats limited (except where necessary for other SMA objectives, and then only when their impacts are mitigated). WAC 173-26-211(5)(c)(ii)(E).	Policies SH-1 Not Found	Non-Compliant: <i>(Ecology 3/2013) Same comment as above.</i> TBD: <i>(Ecology 9/2013): Thank you for identifying relevant policies provided by the draft SMP.</i> <i>Satisfaction of this SMP-Guideline requirement will depend on relevant evaluation of SMP provisions, which is typically provided in a Cumulative Impact Analysis of the final draft SMP.</i>	CITATION: See policy document (SH-1). Also, numerous regulations in the SMP restrict uses and modifications either in certain environment designations and/or in certain habitat types.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
HIGH-INTENSITY ENVIRONMENT WAC 173-26-211(5)(d)			
Designation criteria: Areas within incorporated municipalities, “UGAs,” and “rural areas of more intense development” (see RCW 36.70A.070) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii).	<u>Not Found</u>	<i>N/A: (Ecology 3/2013) The SMP does not include a “High Intensity” designation.</i>	N/A; no response needed
Priority given first to water dependent uses, then to water-related and water-enjoyment uses. New non-water oriented uses prohibited except as part of mixed use developments, or where they do not conflict with or limit opportunities for water oriented uses or where there is no direct access to the shoreline. WAC 173-26-211(5)(d)(ii)(A).	<u>Not Found</u>	<i>N/A: (Ecology 3/2013) The SMP does not include a “High Intensity” designation.</i>	N/A; no response needed
Full use of existing urban areas required before expansion of intensive development allowed. WAC 173-26-211(5)(d)(ii)(B).	<u>Not Found</u>	<i>N/A: (Ecology 3/2013) The SMP does not include a “High Intensity” designation.</i>	N/A; no response needed
New development does not cause net loss of shoreline ecological functions. Environmental cleanup and restoration of the shoreline to comply with relevant state and federal laws assured. WAC 173-26-211(5)(d)(ii)(C).	<u>Not Found</u>	<i>N/A: (Ecology 3/2013) The SMP does not include a “High Intensity” designation.</i>	N/A; no response needed
Visual and physical public access required where feasible. Sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers to achieve aesthetic objectives. WAC 173-26-211(5)(d)(ii)(D) and (E).	<u>Not Found</u>	<i>N/A: (Ecology 3/2013) The SMP does not include a “High Intensity” designation.</i>	N/A; no response needed
URBAN CONSERVANCY ENVIRONMENT WAC 173-26-211(5)(e)			
Designation criteria: Areas within incorporated municipalities, UGAs, and “rural areas of more intense development” not suitable for water-dependent uses but suitable for water-related or water-enjoyment uses, are flood plains, have potential for ecological restoration, retain ecological functions, or have potential for development that incorporates ecological restoration. WAC 173-26-211(5)(e)(iii).	<u>20.25E.10.D.2.a</u>	<i>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</i>	COMPLIANT: No further work needed
Allowed uses are primarily those that preserve natural character of area, promote preservation of open space, floodplain or sensitive	<u>Not Found</u> <u>Policies: SH-1 –</u>	<i>Non-CompliantTBD: (Ecology 3/2013) Management Polices are not included</i>	CITATION: See 20.25H.030 (shoreline use charts – process reflects appropriateness of

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>lands, or are appropriate for restoration. WAC 173-26-211(5)(e)(ii)(A).</p> <p>Priority given to water oriented uses over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water dependent uses given highest priority. WAC 173-26-211(5)(e)(ii)(D).</p> <p>For SMPs that allow mining, see WAC 173-26-241(3)(h).</p>	<p>SH-15 20.25H.030</p>	<p><i>within section 20.25E.10.D.2 of the draft SMP.</i></p> <p>Required Change: A Management Policy to satisfy this SMP-Guideline requirement will need to be either identified or added to the draft SMP.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable management policies</p> <p>In addition to identification of relevant policies, the City will need to demonstrate how the draft SMP prioritizes water-dependent uses over non-water dependent uses?</p>	<p>uses and prioritization through review process)</p> <p>Also, see “Shoreline Environment Designation Policies”, SH-1 – SH-15</p>
<p>Standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications that ensure new development does not result in a net loss of shoreline ecological functions or degrade other shoreline values. WAC 173-26-211(5)(e)(ii)(B).</p>	<p>Not Found Policies: SH-1 – SH-15 20.25E.060.B and (D) and (K) 20.25E.080.F</p>	<p>Non-CompliantTBD: (Ecology 3/2013) Management Polices are not included within section 20.25E.10.D.2 of the draft SMP.</p> <p>Required Change: A Management Policy to satisfy this SMP-Guideline requirement will need to be either identified or added to the draft SMP.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</p>	<p>CITATION: See 20.25E.060.B (no net loss), D (mitigation sequencing), K (vegetation conservation), and L (water quality) and .080 (shoreline modifications, including F – shoreline stabilization)</p> <p>Also, see “Shoreline Environment Designation Policies”, SH-1 – SH-15</p>
<p>Public access and recreation required where feasible and ecological impacts are mitigated. WAC 173-26-211(5)(e)(ii)(C).</p>	<p>Not Found Policies: SH-1 – SH-15 20.25E.060.J</p>	<p>Non-CompliantTBD: (Ecology 3/2013) Management Polices are not included within section 20.25E.10.D.2 of the draft SMP.</p> <p>Required Change: A Management Policy to satisfy this SMP-Guideline requirement will</p>	<p>CITATION: See 20.25E.060.I</p> <p>Also, see “Shoreline Environment Designation Policies”, SH-1 – SH-15</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p><i>need to be either identified or added to the draft SMP.</i></p> <p><u>TBD:</u> <i>(Ecology 9/2013) Thank you for identifying the location of applicable provisions.</i></p> <p><i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i></p>	
SHORELINE RESIDENTIAL ENVIRONMENT WAC 173-26-211(5)(f)			
<p>Designation criteria: Areas within incorporated municipalities, UGAs, “rural areas of more intense development”, and “master planned resorts” (see RCW 36.70A.360) that are predominantly residential development or planned and platted for residential development. WAC 173-26-211(5)(f)(iii).</p>	<p><u>20.25E.10.D.4.b</u></p>	<p><i>Compliant:</i> <i>(Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.</i></p>	<p>COMPLIANT: No further work needed</p>
<p>Standards for density or minimum frontage width, setbacks, buffers, shoreline stabilization, critical areas protection, and water quality protection assure no net loss of ecological function. WAC 173-26-211(5)(f)(ii)(A).</p>	<p><u>Not Found</u> <u>20.25E.065.C and B through G</u></p>	<p><i>Non-Compliant</i><u>TBD:</u> <i>(Ecology 3/2013) Management policies were not found within the Shoreline Environment section (20.25E.10.D) of the City’s draft SMP. Further, section 20.25E.065.C provide dimensional standards, but do not include adequate background/context, policy direction, or authorization from “Shoreline Residential Management” policies. In short, the specific standards lack a clear basis.</i></p> <p><i>Required Change:</i> <i>As required for other designations, the City will need to develop “management policies” for the “Shoreline Residential” environment designation consistent with applicable SMP-Guideline requirements.</i></p> <p><u>TBD:</u> <i>(Ecology 9/2013) Thank you for identifying the location of applicable provisions.</i></p>	<p>CITATION: See 20.25E.065.B – G for dimensional standards, shoreline stabilization, critical areas protection, water quality protection</p> <p>Also, see “Shoreline Environment Designation Policies”, SH-1 – SH-15</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	
Multifamily and multi-lot residential and recreational developments provide public access and joint use for community recreational facilities. WAC 173-26-211(5)(f)(ii) (B).	<u>Not Found</u>	Non-Compliant: (Ecology 3/2013) Same comment as above.	SUBSTANTIVE
Access, utilities, and public services required to be available and adequate to serve existing needs and/or planned future development. WAC 173-26-211(5)(f)(ii)(C).	<u>Not Found</u> <u>20.30.C, (H) and (R)</u>	Non-CompliantTBD: (Ecology 3/2013) Same comment as above. TBD: (Ecology 9/2013):It is not clear if the referenced sections from "20.30" are part of the updated SMP, or independent City provisions. Further, if a non-SMP provision is intended to satisfy a SMP-Guideline requirement, then the non-SMP provision needs to be added or formally referenced as part of the updated SMP.	CITATION: See 20.30C, H, and R which require all shoreline permits to comply with Comprehensive Plan.
Commercial development limited to water oriented uses. WAC 173-26-211(5)(f)(ii)(D).	<u>Not Found</u> <u>20.25E.030</u>	Non-CompliantTBD: (Ecology 3/2013) Same comment as above. TBD: (Ecology 9/2013) In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.	CITATION: See 20.25E.030 for extent of uses allowed in residential environment
GENERAL POLICIES AND REGULATIONS			
ARCHAEOLOGICAL AND HISTORICAL RESOURCES WAC 173-26-221(1)			
Developers and property owners required to stop work and notify the local government, state office of archaeology and historic preservation, and affected Indian tribes if archaeological resources are uncovered during excavation. WAC 173-26-221(1)(c)(i).	<u>20.25E.060.F.2.a</u>	Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.	COMPLIANT – No further work needed.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
Permits issued in areas documented to contain archaeological resources require site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. WAC 173-26-221(1)(c)(ii).	<u>20.25E.060.F.2.b</u>	Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.	COMPLIANT – No further work needed.
CRITICAL AREAS WAC 173-26-221(2)			
<p>Policies and regulations for critical areas (designated under GMA) located within shorelines of the state that:</p> <p>Are consistent with SMP guidelines</p> <p>Provide a level of protection equal to critical areas within shorelines that satisfy the no net loss of ecological functions requirement, as provided by the local government’s existing critical area regulations adopted pursuant to the GMA for comparable areas other than shorelines. WAC 173-26-221(2)(a) and (c).</p> <p>Planning objectives are for protection <i>and restoration</i> of degraded ecological functions and ecosystem-wide processes. Regulatory provisions protect existing ecological functions and ecosystem-wide processes. WAC 173-26-221(2)(b)(iv).</p> <p>Critical area provisions promote human uses and values, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions. WAC 173-26-221(2)(b)(v).</p>	<p><u>20.25E.10.B.2</u></p> <p><u>20.25E.10.C.1.b.ii</u></p> <p><u>20.25E.060.G</u></p> <p><u>20.25E.065.G.2.iv</u></p> <p><u>20.25H.190</u></p>	<p>Non-Compliant: (Ecology 5/25/2011) See written comment on pages 3, 4 (Vegetation Management), and 7 (Wetlands) from Ecology Environmental Planner, Dave Radabaugh.</p> <p>(Ecology 5/25/2011) See comment H.5 (page 7) from Ecology Wetland Specialist (Patrick McGraner) noting the inconsistency of provision 20.25E.065.G.2.iv, which allows for substitution of native plant within buffers, for which Ecology is not aware of any scientific studies supporting this approach.</p> <p>Non-Compliant: (Ecology 3/2013) In addition to <u>not</u> finding Critical Areas Policies to satisfy consistency with SMP-Guideline requirements at WAC 173-26-221(2), Ecology would like to discuss with the City options related to narrowing the SMP’s reference to only those sections of the City’s Critical Areas Ordinance (20.25H) that are relevant to the SMP. The current SMP provides three formal references (20.25E.10.B.2-SMP Elements, 20.25E.10.C.1.b.ii-Scope, and 20.25E.060.G-Gen. Regulations) to the City’s CAO (20.25H) in its entirety, which effectively makes the CAO a part of the SMP and could affect the City’s ability to make administrative amendments to the CAO without requiring Ecology’s approval as a shoreline amendment. Further, some of the CAO’s administrative exceptions (such as</p>	SUBSTANTIVE

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>“reasonable use”), may not be consistent with SMP-Guideline requirements.</p> <p>Provision 20.25H.190 (Reasonable Use Exception) is not consistent with SMP-Guideline requirements and should not be included as a part of the updated SMP, for which a Shoreline Variance must be processed when a development cannot satisfy applicable dimensional requirements.</p>	
<p>If SMP includes optional expansion of jurisdiction: Clear description of the inclusion of any land necessary for buffers of critical areas that occur within shorelines of the state, accurately depicting new SMP jurisdiction consistent with RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a).</p>	<p><u>Not Found</u></p>	<p>Non-Compliant: (Ecology 3/2013) Ecology could not find a clear response to this option within the draft SMP.</p> <p>Required Change: Please clarify which option the City plans to commit to.</p> <p><i>TBD (Ecology 9/2013) Thank you for clarifying the City’s intent to not expand jurisdiction to manage critical areas located in an out of shoreline jurisdiction.</i></p> <p><i>Use of a “fixed elevation” is a “significant Issue” for which Ecology will continue to work with the City to develop an appropriate standard (consistent with the SMA and SMP-Guidelines) for the updated SMP.</i></p>	<p>CITATION: expansion of jurisdiction is not contemplated.</p> <p>20.25E.010.C.2 uses fixed elevation measurement reference points to determine setbacks and buffers other than OHWM and may be inconsistent w/RCW 90.58.030(2)(d).</p>
<p>WETLANDS WAC 173-26-221(2)(c)(i)</p>			
<p>Wetlands definition is consistent with WAC 173-22.</p>	<p><u>20.25H.095.A (CAO referenced in SMP)</u></p>	<p>Compliant: (Ecology 5/25/2011) Please see comment (page 7, Item H.1.) from Ecology Wetland Specialist (Patrick McGraner), confirming that the CAO’s wetland definition appears compliant</p> <p>Suggested Change: As part of the same comment the City was encouraged to add the City’s “significant tree” (20.50.010) definition and the “wetland” (20.25E.095.A) definition to the SMP in section 20.25E.280.</p> <p><i>TBD: (Ecology 9/2013) A determination on</i></p>	<p>COMPLIANT – No further work needed.</p> <p>MINOR EDIT: Could add definition of “significant tree” and “wetland” to 20.25E.280 per DOE’s suggestion.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<u>consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</u>	
Provisions requiring wetlands delineation method are consistent with WAC 173-22-035.	<u>Not Found</u> <u>20.25.E</u> and <u>20.25H</u>	<p>Non-Compliant: (Ecology 3/2013) Based on a review of the draft SMP and reference to the City's Critical Areas Ordinance, Ecology could not locate any reference to wetland delineation standards to satisfy this SMP-Guideline requirement.</p> <p>Required Change: The City will need to amend the draft-SMP to either; (1) provide a specific reference to existing wetland delineation method consistent with the SMP-Guidelines, or (2) reference the wetland delineation methods provided in WAC 173-22-035.</p> <p>TBD: (Ecology 9/2013) Thank you for providing the references, we will consult with our wetland specialist to determine if the referenced provisions are compliant.</p>	CITATION: 20.25E refers to CAO (20.25H), which defers to application submittal requirements.
Regulations address all uses and activities listed in WAC 173-26-221(2)(c)(i)(A) to achieve no net loss of wetland area and functions, including lost time when the restoration does not perform the functions. WAC 173-26-221(2)(c)(i)(A) + (C).	<u>20.25H.050.B</u> <u>20.25H.050, .055, and .095</u> <u>20.25H.105.C.</u>	<p>Non-Compliant TBD (Ecology 3/2013) Dependent on Compliance with "Wetland Mitigation" and "Compensatory Mitigation" requirements below.</p> <p>TBD: (Ecology 9/2013) Thank you for providing the references, we will consult with our wetland specialist to determine if the referenced provisions are compliant.</p>	CITATION: See Critical Areas Code 20.25H.050, .055, and .095. "Lost time" element addressed through 20.25H.105.C.
Wetlands rating or categorization system is based on rarity, irreplaceability, and/or sensitivity to disturbance of a wetland and the functions the wetland provides. Use Ecology Rating System or regionally specific, scientifically based method. WAC 173-26-221(2)(c)(i)(B)]	<u>20.25H.095.B</u>	Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.	COMPLIANT – No further work needed.
Wetland Buffer requirements are adequate to ensure wetland functions are protected and maintained in the long-term, taking into account ecological functions of the wetland, characteristics of the buffer, and potential impacts associated with adjacent land uses.	<u>20.25H.095.C.1</u>	Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.	COMPLIANT – No further work needed.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>WAC 173-26-221(2)(c)(i)(B). Wetland buffer widths assume a naturally vegetated state; wider buffers or a revegetation plan may be needed if buffer is unvegetated or sparsely vegetated.</p>			
<p>Wetland mitigation requirements are consistent with WAC 173-26-201(2)(e) and are based on the wetland rating or other scientifically valid means demonstrating replacement of all functions lost (hydrologic, habitat, and water quality). WAC 173-26-221(2)(c)(i)(E) and (F).</p>	<p>20.25H.105.D 20.25H.210-.215</p>	<p>Non-Compliant: (Ecology 5/25/2011) Please see comment (page 7, Item H.4.) from Ecology Wetland Specialist (Patrick McGraner) related to mitigation ratios for replacement of lost functions when using enhancement.</p> <p>Required Change: Amend the SMP to include enhancement ratios based on Best Available Science (Publication #05-06-008) to assure consistency with No Net Loss.</p> <p>TBD: (Ecology 9/2013) Thank you for providing the references, we will consult with our wetland specialist to determine if the referenced provisions are compliant.</p>	<p>CITATION: See 20.25H.105 (wetlands) and 20.25H.210-.215 (generally). Mitigation requirements in those sections are consistent with principles of WAC 173-26-201(2)(e) and are based on the wetland rating.</p>
<p>Compensatory mitigation allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.</p> <p>Compensatory mitigation requirements include (I) replacement ratios; (II) Performance standards for evaluating success; (III) long-term monitoring and reporting procedures; and (IV) long-term protection and management of compensatory mitigation sites. WAC 173-26-221(2)(c)(i)(F).</p> <p>Compensatory mitigation requirements are consistent with preference for “in-kind and nearby” replacement, and include requirement for watershed plan if off-site mitigation is proposed. WAC 173-173-26-201(2)(e)(B).</p>	<p>20.25E.220.D 20.25H.035.A 20.25H.095.B.4 20.25H.095.C.1.</p>	<p>Non-Compliant: (Ecology 5/25/2011) Please see comment (page 7, Item H. 2. and 3.) from Ecology Wetland Specialist (Patrick McGraner) related to mitigation requirements for small wetlands and monitoring time frames.</p> <p>Required Change: Amend the SMP to <u>not</u> provide a regulatory exemption that allows alteration of small wetlands without mitigation, or include mitigation ratios for small wetlands based on Best Available Science (Publication #05-06-008) and increase monitoring time frame from 5-years to 10-years to ensure consistency with SMP-Guideline requirements and consistent with previous guidance provided to the City from Ecology (i.e., Laura Casey letter dated 11/7/2005).</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
GEOLOGICALLY HAZARDOUS AREAS WAC 173-26-221(2)(c)(ii)			
<p>Prohibition of new development and creation of new lots that would: Cause foreseeable risk from geological conditions during the life of the development. WAC 173-26-221(2)(c)(ii)(B);</p> <p>Require structural shoreline stabilization over the life of the development. (Exceptions allowed where stabilization needed to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.) WAC 173-26-221(2)(c)(ii)(C).</p>	<p><u>Not Found (in SMP)</u></p> <p><u>20.25H.120 (CAO)</u></p> <p><u>20.25H.125.C</u></p> <p><u>20.25E.060.E.2 and .065.B.2</u></p>	<p>Non-Compliant TBD: (Ecology 3/2013) Compliance with the referenced SMP-Guideline requirement has not been clearly provided in the draft SMP.</p> <p>Required Change: The City can add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) Thank for providing the additional references. Provision 20.25E.060.E.2 is clear, however section .065.B.2 adds a “feasibility” element, for which may effect the consistency of this provision. We suggest that the City consider amending 20.25E.065.B.2 to be consistent with the SMP-Guidelines and 20.25E.060.E.2</p>	<p>CITATION: See 20.25H.125.C – prohibits increase in risk. See 20.25E.060.E.2 and .065.B.2</p>
<p>New stabilization structures for existing primary residential structures allowed only where no alternatives (including relocation or reconstruction of existing structures), are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result. WAC 173-26-221(2)(c)(ii)(D).</p>	<p><u>20.25E.080</u></p>	<p>TBD (Ecology 3/2013) See Shoreline Stabilization section below.</p> <p>(Ecology 9/2013) Same comment as above</p>	<p>CITATION: See 20.25E.080.F.4.a (Shoreline stabilization).</p>
CRITICAL SALTWATER HABITATS WAC 173-26-221(2)(c)(iii)			
<p>Prohibit new docks, bulkheads, bridges, fill, floats, jetties, utility crossings and other structures in or over critical saltwater habitats, except where:</p> <p>Public need is clearly demonstrated;</p> <p>Avoidance of impacts is not feasible or would result in unreasonable cost;</p> <p>The project include appropriate mitigation; and</p> <p>The project is consistent with resource protection and species recovery.</p>	<p><u>N/A</u></p>	<p>Not Applicable: (Ecology 3/2013) The City of Bellevue’s shoreline jurisdiction does not include any marine waters.</p>	<p>N/A; no response needed</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
Where inventory of critical saltwater habitat has not been done, all over water and near-shore developments in marine and estuarine waters require habitat assessment of site and adjacent beach sections. WAC 173-26-221(2)(c)(iii)(C)	N/A	Not Applicable: (Ecology 3/2013) The City of Bellevue's shoreline jurisdiction does not include any marine waters.	N/A; no response needed
CRITICAL FRESHWATER HABITATS WAC 173-26-221(2)(c)(iv)			
Requirements that ensure new development within stream channel, channel migration zone, wetlands, floodplain, hyporheic zone, does not cause a net loss of ecological functions. WAC 173-26-221(2)(c)(iv)(C)(I) and WAC 173-26-221(2)(c)(iv)(B)(II).	Not Found	Non-Compliant: (Ecology 3/2013) Compliance with the referenced SMP-Guideline requirement has not been clearly provided in the draft SMP. Required Change: The City can add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.	SUBSTANTIVE
Authorization of appropriate restoration projects is facilitated. WAC 173-26-221(2)(c)(iv)(C)(III).	Not Found	Non-Compliant: (Ecology 3/2013) Same comment as provided above.	SUBSTANTIVE
Regulations protect hydrologic connections between water bodies, water courses, and associated wetlands. WAC 173-26-221(2)(c)(iv)(C)(IV).	Not Found 20.25H	Non-Compliant TBD: (Ecology 3/2013) Same comment as provided above. TBD: (Ecology 9/2013) In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.	CITATION: 20.25H protects hydrologic connections by protecting wetlands, streams, and floodplains.
FLOOD HAZARD REDUCTION WAC 173-26-221(3)			
New development within the channel migration zone or floodway limited to uses and activities listed in WAC 173-26-221(3)(b) and (3)(c)(i).	Not Found	Non-Compliant: (Ecology 3/2013) Compliance with the referenced SMP-Guideline requirement has not been clearly provided in the draft SMP. Required Change: The City can add a new provision to the SMP to satisfy this requirement, or clarify how (including a	SUBSTANTIVE

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.	
<p>New structural flood hazard reduction measures allowed only:</p> <p>Where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished;</p> <p>Landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis. WAC 173-26-221(3)(c)(ii) & (iii).</p>	<p>20.25H.055.C.2 and C.3.c. and 180.C <u>Not Found</u></p>	<p>Non-Compliant<i>TBD: (Ecology 3/2013) Same comment as provided above.</i> <i>TBD: (Ecology 9/2013) In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i></p>	<p>CITATION: See 20.25H.055.C.2 and C.3.c, and .180.C.</p>
<p>New publicly funded dikes or levees required to dedicate and improve public access (see exceptions). WAC 173-26-221(3)(c)(iv).</p>	<p><u>Not Found</u></p>	<p>Non-Compliant: (Ecology 3/2013) Same comment as provided above.</p>	<p>SUBSTANTIVE</p>
<p>Removal of gravel for flood control allowed only if biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution. WAC 173-26-221(3)(c)(v).</p>	<p>20.25H.055.B and C.2. <u>Not Found</u></p>	<p>Non-Compliant<i>TBD: (Ecology 3/2013) Same comment as provided above.</i> <i>TBD: (Ecology 9/2013) In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i></p>	<p>CITATION: CAO provisions will govern. See 20.25H.055.B and C.2.</p>
PUBLIC ACCESS WAC 173-26-221(4)			
<p>Applicability: Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. WAC 173-26-221(4)(d)(i). For S of SWS the SMP should identify and evaluate all publicly owned shoreline parcels and their suitability for public access.</p>	<p>Shoreline Policies SH-37 – SH-39 20.25E.060.I (.1 -.8)</p>	<p>Non-Compliant: (Ecology 3/2013) The referenced provision provides a universal exception for "Public Access" related to "residential development." The SMP-Guidelines (WAC 173-26-221(4)) require local governments to develop standards for the dedication and improvement of Public Access associated with water-enjoyment, water-related, non-water oriented development and the subdivision of land into four or more new lots. Local governments are allowed to</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>propose a more effective public access plan as well as the authority to identify scenarios where public access would not be required based on a demonstration of infeasibility due to safety, security or impact to the shoreline environment.</p> <p>Required Change: The City should either amend the referenced provision (consistent with the SMP-Guidelines) or provide a demonstration clarifying how the proposed section of the SMP is consistent with applicable SMP-Guideline requirements.</p>	
<p>Policies and regulations protect and enhance both physical and visual access. WAC 173-26-221(4)(d)(i).</p>	<p><u>20.25E.060.1</u> (.1 -.8)</p>	<p>Non-Compliant: (Ecology 3/2013) Same comment as above.</p> <p>Required Change: See above.</p> <p>Compliant: (Ecology 9/2013) Thank you for identifying the location of applicable provisions, which appear generally consistent with the referenced SMP-Guideline requirement.</p>	<p>In addition to 20.25E.060.1.2, .4, and .6, also review policies.</p>
<p>Public entities are required to incorporate public access measures as part of each development project, unless access is incompatible with safety, security, or environmental protection. WAC 173-26-221(4)(d)(ii).</p>	<p><u>20.25E.060.1</u> (.1 -.8)</p>	<p>Non-Compliant: (Ecology 3/2013) Same comment as above.</p> <p>Required Change: See above.</p>	<p>SUBSTANTIVE</p>
<p>Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required [with certain exceptions].</p>	<p><u>20.25E.060.1</u> (.1 -.8)</p>	<p>Non-Compliant: (Ecology 5/25/2011) Please see comment (page 6, Item E.) from Ecology Environmental Planner (Dave Radabaugh) related to Public Access requirements for marinas, water-enjoyment, water-related and non-water dependent uses, including some types of residential development and public projects.</p> <p>Required Change: Amend the SMP to include Public Access requirements consistent with SMP-Guideline requirements.</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Maximum height limits, setbacks, and view corridors minimize impacts to existing views from public property or substantial numbers of residences. WAC 173-26-221(4)(d)(iv); RCW 90.58.320.</p>	<p><u>Not Found</u> 20.20 Comp Plan Policy UD-8, UD-9, UD-23, and UD-31 20.25E.065</p>	<p>Non-Compliant: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found.</p> <p>Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p><i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i></p>	<p>CITATION: 20.20 and 20.25E.065 contain development standards that limit height and volume and require setback of structures. Comprehensive Plan Urban Design Policies UD-8, UD-9, UD-23, UD-31</p>
<p>VEGETATION CONSERVATION (CLEARING AND GRADING) WAC 173-26-221(5)</p>			
<p>Vegetation standards implement the principles in WAC 173-26-221(5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. WAC 173-26-221(5)(c).</p>	<p>20.25E.060.K (.1 and .5) 20.25E.065.G.2.iv</p>	<p>Non-Compliant: (Ecology 5/25/2011) Please see comment (page 7, Item H.4.) from Ecology Wetland Specialist (Patrick McGraner) related to mitigation ratios for replacement of lost functions when using enhancement.</p> <p>(Ecology 5/25/2011) See comment H.5 (page 7) from Ecology Wetland Specialist (Patrick McGraner) noting the inconsistency of provision 20.25E.065.G.2.iv, which allows for substitution of native plant within buffers, for which Ecology is not aware of any scientific studies supporting this approach.</p> <p>Required Change: Amend the SMP to include enhancement ratios based on Best Available Science (Publication #05-06-008)</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>to assure consistency with No Net Loss.</p> <p>Non-Compliant: (Ecology 3/2013) The referenced provisions, exempt “Vegetation Conservation/Landscape” standards from both the “Shoreline Residential” and “Shoreline Residential Canal” designations.</p> <p>It is not clear how the City will be able to satisfy SMP-Guideline consistency to maintain No Net Loss and implement the principles of WAC 173-26-221 (5) (b) while also exempting the Shoreline Residential and Shoreline Residential Canal designations from vegetation conservation standards.</p> <p>Required Change: The SMP should be amended to include appropriate standards to satisfy consistency with the referenced Vegetation Conservation (SMP-Guideline) requirements.</p>	
<p>Selective pruning of trees for safety and view protection is allowed and removal of noxious weeds is authorized. WAC 173-26-221(5)(c).</p>	<p>20.25E.060.K (.13 - .15)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirement.</p>	<p>COMPLIANT – No further work needed.</p>
<p>WATER QUALITY WAC 173-26-221(6)</p>			
<p>Provisions protect against adverse impacts to water quality and storm water quantity and ensure mutual consistency between SMP and other regulations addressing water quality. WAC 173-26-221(6).</p>	<p>Shoreline Policies SH-47 – SH-52 20.25E.060.L.2 20.25E.065.B.2.j</p>	<p>Non-Compliant TBD: (Ecology 3/2013) The referenced provision, exempts “residential” uses from the Water Quality, Stormwater, and Nonpoint source standards of the SMP.</p> <p>The SMP-Guidelines do not provide any specific exception to compliance with Water-Quality or any other applicable standards for Residential uses.</p> <p>Required Change: The SMP should be amended to appropriately apply Water-Quality standards to satisfy consistency with the referenced SMP-Guideline requirements.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable</p>	<p>CITATION: See policies SH-47 through 52, 20.25E.060.L (Water quality, stormwater, and nonpoint pollution), and .065.B.2.j.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p><u>provisions.</u></p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u></p>	
SHORELINE MODIFICATIONS			
<p>SMP: (a) allows structural shoreline modifications only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement;</p> <p>(b) limits shoreline modifications in number and extent;</p> <p>(c) allows only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed;</p> <p>(d) gives preference to those types of shoreline modifications that have a lesser impact on ecological functions. Policies promote "soft" over "hard" shoreline modification measures</p> <p>(f) incorporates all feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur;</p> <p>(g) requires mitigation sequencing.</p> <p>WAC 173-26-231(2); WAC 173-26-231(3)(a)(ii) and (iii);</p>	<p><u>Shoreline Policies SH-79 – SH-108</u></p> <p><u>20.25E.080 (A.)</u></p> <p><u>20.25.080(A. – F.)</u></p> <p><u>20.25E.160E</u></p>	<p>Non-Compliant TBD: (Ecology 3/2013) <i>The Shoreline Modification "Applicability" section generally refers to "procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP", but does not provide a specific reference to referenced SMP-Guideline requirements.</i></p> <p>Required Change: <i>The SMP should be amended to include general shoreline modification standards (consistent with applicable sections of the SMP-Guidelines), or the City should clearly demonstrate (including specific references), how the proposed SMP is consistent with SMP-Guideline requirements.</i></p> <p><i>Authority provided through the "Special Shoreline Report" (20.25E.160.E) is not consistent with SMP-Guideline requirements, as the report appears to provide a undefined amount of "flexibility" to setback, moorage, and stabilization standards in the SMP, without requiring a shoreline Variance.</i></p> <p><u>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</u></p> <p><u>However, questions still remain related to the potential inconsistency and effect of the "Special Shoreline Report".</u></p>	<p>CITATION: See Shoreline Modification Policies, SH-79 – SH-108).</p> <p>(a) See 20.25E.080B.2 (breakwaters), F.3 and 4 (shoreline stabilization), and 20.25E.160E (Special Shoreline Report Process).</p> <p>(b) See 20.25E.065.H.4 (Piers and Docks), .070.C.3.g.ii(4) (overwater structures), .080.B.3.c (breakwaters), C.1.b (clearing, grading, fill), D.3.b (dredging), E.4.c.iv (non-residential moorage), F.4 (stabilization).</p> <p>(c) See 20.25E.080</p> <p>(d) See 20.25E.080.F.4.b (new or enlarged shoreline stabilization measures)</p> <p>(f) See 20.25E.060.B-D</p> <p>(g) See 20.25E.060.D.2 (Mitigation Requirements and Sequencing).</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<u>Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u>	
SHORELINE STABILIZATION WAC 173-26-231(3)(a)			
<p>Definition: structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. WAC 173-26-231(3)(a)(i).</p> <p>Definition of new stabilization measures include enlargement of existing structures. WAC 173-26-231(3)(a)(iii)(C), last bullet; WAC 173-26-231(3)(a)(iii)(B)(I), 5th bullet).</p>	<p><u>20.25E.80.F.1</u> <u>20.25E.80.F.2 (a.-e.)</u> <u>20.25E.80.F.4</u></p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p> <p>Note: provision 20.25E.80.F.1 reference to a "Special Shoreline Report" is not consistent with SMP-Guideline requirements, as the report appears to provide a undefined amount of "flexibility" to setback, moorage, and stabilization standards in the SMP, without requiring a shoreline Variance.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Standards setting forth circumstances under which shoreline alteration is permitted, and for the design and type of protective measures and devices. WAC 173-26-231(3)(a)(ii).</p>	<p><u>Shoreline Policies SH-104 – SH-108</u> <u>20.25E.80.F.1</u> <u>20.25E.80.F.3 (a.-b.)</u></p>	<p>Non-Compliant<u>TBD:</u> (Ecology 3/2013) See comment above related to provision 20.25E.80.F.1.</p> <p>Provision 20.25E.80.F.3. (Technically Feasible), does not appear consistent with applicable SMP-Guideline (Shoreline Stabilization) "Principles" (WAC 173-26-231(3)(a)(ii) or "Standards" (subsection iii) as the draft SMP creates arbitrary criteria that includes consideration of the "cost of avoidance of impacts" instead of applying mitigation sequencing and shoreline modification principles intended to focus on avoidance (then minimization) opportunities in design and application of the shoreline development.</p> <p>Required Change: Amend referenced shoreline stabilization provisions for consistency with applicable SMP-Guideline requirements.</p> <p><u>TBD:</u> (Ecology 9/2013) Thank you for</p>	<p>CITATION: See 20.25E.080.F.4 (New or Enlarged Stabilization Measures - groups enlarged stabilization with new stabilization).</p> <p>Also, see policies SH-104 – SH-108 (shoreline stabilization policies).</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p><i>identifying the location of applicable provisions.</i></p> <p><i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i></p>	
<p>New development (including newly created parcels) required to be designed and located to prevent the need for future shoreline stabilization, based upon geotechnical analysis.</p> <p>New development on steep slopes and bluffs required to be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.</p> <p>New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited. WAC 173-26-231(3)(a)(iii)(A).</p>	<p>20.25E.060.E.2 and .065.B.2.a 20.25E.080.F.4 20.25H.120.B-C 20.25H.140 Not Found</p>	<p>Non-CompliantTBD: (Ecology 5/25/2011) see comment (page 6, Item G.3.) from Ecology Environmental Planner (Dave Radabaugh) related minimum shoreline stabilization standards.</p> <p>Required Change: Amend the SMP to include standards requiring that new shoreline development be designed to avoid the need for future shoreline stabilization, consistent with SMP-Guideline requirements (WAC 173-266-231(3)(a)(iii)(A)).</p> <p>Non-Compliant: (Ecology 3/2013) Same comment as previously provided by Ecology in a letter dated 5/25/ 2011.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p><i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i></p>	<p>CITATION: See 20.25E.060.E.2 and .065.B.2.a. Also see 20.25H.120.B-C (Critical Areas Code – buffers/setbacks from toe/top of slope) and 20.25H.140 (analysis requirements), and 20.25E.080.F.4 (shoreline stabilization measures)</p>
<p>New structural stabilization measures are not allowed except when necessity is demonstrated. Specific requirements for <i>how to demonstrate need</i> are established for:</p> <p>(I) existing primary structures;</p> <p>(II) new non-water-dependent development including single family</p>	<p>20.25E.80.F.3. (a.-b.) 20.25E.80.F.4</p>	<p>Non-Compliant: (Ecology 3/2013) See comment above related to inconsistency with "Technically Feasible" criteria provided in the draft SMP.</p> <p>Required Change: Same recommendation</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
residences; (III) water-dependent development; and (IV) ecological restoration/toxic clean-up remediation projects. WAC 173-26-231(3)(a)(iii)(B)		<i>as above, Amend referenced shoreline stabilization provisions for consistency with applicable SMP-Guideline requirements.</i>	
Replacement of existing stabilization structures is based on demonstrated need. Waterward encroachment of replacement structure is allowed only for residences occupied prior to January 1, 1992, Or for soft shoreline stabilization measures that provide restoration of ecological functions. WAC 173-26-231(3)(a)(iii)(C).	20.25E.80.F.5. 20.25E.80.F.6. (a.-d.)	Non-Compliant: <i>(Ecology 3/2013) The referenced provisions are not consistent with applicable SMP-Guideline requirements, as the draft SMP does not require a “demonstration of need” for protection of principle uses or structures from erosion, and do not prioritize consideration of softer shoreline stabilization solutions consistent with the SMP-Guidelines.</i> Required Change: <i>Amend the SMP for consistency with applicable SMP-Guideline requirements, including criteria to establish a “demonstrated need” for replacement of an existing bulkhead and consideration of softer stabilization options.</i>	SUBSTANTIVE
Geotechnical reports prepared to demonstrate need include estimates of rate of erosion and urgency (damage within 3 years) and evaluate alternative solutions. WAC 173-26-231(3)(a)(iii)(D).	20.25E.080.F.3 Not Found	Non-Compliant: <i>(Ecology 5/25/2011) see comment (page 6-7, Item G. 4. & 6.) from Ecology Environmental Planner (Dave Radabaugh) related minimum shoreline stabilization standards.</i> Required Change: <i>Amend the SMP to require a geotechnical analysis to demonstrate the need for shoreline stabilization, consistent with applicable requirements from the SMP-Guidelines.</i> Non-Compliant: <i>(Ecology 3/2013) Same comment as previously provided by Ecology in a letter dated 5/25/ 2011.</i> TBD: <i>(Ecology 9/2013) As provided in our previous comments, provision 20.25E.80.F.3. (Technically Feasible), does not appear consistent with applicable SMP-Guideline (Shoreline Stabilization)</i>	CITATION: <i>See 20.25E.080.F.3 (Technically feasible). Specific requirements would be handled through permit application submittal requirements.</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p><i>“Principles” (WAC 173-26-231(3)(a)(ii) or “Standards” (subsection iii) as the draft SMP creates arbitrary criteria that includes consideration of the “cost of avoidance of impacts” instead of applying mitigation sequencing and shoreline modification principles intended to focus on avoidance (then minimization) opportunities in design and application of the shoreline development.</i></p>	
<p>Shoreline stabilization structures are limited to the minimum size necessary. WAC 173-26-231(3)(a)(iii)(E).</p>	<p><u>Not Found</u></p>	<p>Non-Compliant: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found. Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p>	<p>SUBSTANTIVE</p>
<p>Public access required as part of publicly financed shoreline erosion control measures. WAC 173-26-231(3)(a)(iii)(E).</p>	<p><u>Not Found</u></p>	<p>Non-Compliant: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found. Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p>	<p>N/A: City does not publicly finance erosion control.</p>
<p>Impacts to sediment transport required to be avoided or minimized. WAC 173-26-231(3)(a)(iii)(E).</p>	<p><u>Not Found</u></p>	<p>Non-CompliantTBD: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found. Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement. TBD: (Ecology 9/2013) A determination on</p>	<p>MINOR EDIT: Language could be added</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</i>	
PIERS AND DOCKS WAC 173-26-231(3)(b)			
<p>New piers and docks:</p> <p>Allowed only for water-dependent uses or public access</p> <p>Restricted to the minimum size necessary to serve a proposed water-dependent use.</p> <p>Permitted only when specific need is demonstrated (except for docks accessory to single-family residences).</p> <p>Note: Docks associated with single family residences are defined as water dependent uses provided they are designed and intended as a facility for access to watercraft. WAC 173-26-231(3)(b).</p>	<p>20.25E.065.H (1.-4.)</p> <p>20.25E.065.H.5</p>	<p>Non-CompliantTBD: (Ecology 3/2013) The SMP-Guidelines address Pier and Docks (serving less than 4-residences) as a "Shoreline Modification" pursuant to the requirements of WAC 173-26-231 (3) (b). The City's draft SMP only address "non-residential moorage facilities" (20.25E.080.E.) as a Shoreline Modification and provide "Residential Moorage (Overwater Structures)" as "Residential Use" standards (20.25E.065.H), which are inconsistent with applicable SMP-Guideline requirements. Further, the City's draft (Residential Moorage) standards do not address the minimum SMP-Guideline standards required for Pier and Docks. Finally, provision 20.25E.065.H.5 (Repair and Replacement) allows for in-kind replacement of existing Residential Docks (using new approved materials) despite consistency or inconsistency with new dock standards related to orientation of the overwater structure. This provision is anticipated to hinder the City's ability to see cumulative reduction in overwater area when an old (large dock) is replaced in a new (conforming) orientation. Further, the proposed SMP allows for construction of new Residential Docks, which has the potential to increase (cumulative) overwater coverage and is anticipated to result in a net loss of shoreline ecologic function – inconsistent with SMP-Guideline requirements.</p> <p>Required Change: The City will need to</p>	<p>CITATION: See 20.25E.065.H (Residential moorage), .080.E (Non-residential moorage), .070.C (Recreation; 20.25E.065.H.4, .070.C.3.c.i and g.ii(4)). Also, see policies SH-90 – 98.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>amend the draft SMP to maintain consistency with applicable SMP-Guideline requirements including: Appropriate reference to “Residential Moorage” (Pier and Dock) development as “Shoreline Modifications”, add basic provisions consistent with SMP-Guideline requirements (i.e., allowed only for water-dependent uses, minimum size necessary...etc.). SMP provisions will also need to demonstrate NNL, factoring in the effect of allowing both in-kind replacement and new docks.</p> <p>Note: Authority provided through the “Special Shoreline Report” (20.25E.160.E) is not consistent with SMP-Guideline requirements, as the report appears to provide a undefined amount of “flexibility” to setback, moorage, and stabilization standards in the SMP, without requiring a shoreline Variance.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</p>	
<p>When permitted, new residential development of more than two dwellings is required to provide joint use or community docks, rather than individual docks. WAC 173-26-231(3)(b)</p>	<p><u>Not Found</u></p>	<p>Non-Compliant: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found.</p> <p>Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p>	<p>SUBSTANTIVE</p> <p>CITATION: See 20.25E.065.H.4.iii and .065.B.2.k.ii.a.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Design, construction & placement of piers, docks, mooring buoys, boat lifts, boat ramps, marine railways, and float plane facilities are required to avoid, minimize and mitigate for impacts to ecological processes and functions and be constructed of approved materials. WAC 173-26-231(3)(b).</p>	<p><u>Not Found</u> <u>20.25E.065.H.</u> <u>(.3-.4)</u></p>	<p><u>TBD Discuss: (Ecology 9/2013):</u></p> <p>Non-Compliant: (Ecology 3/2013) Similar comments to those provided above. The referenced SMP provisions do not provide general standards enforcing mitigation sequencing (i.e., avoid, minimize and then mitigate). Further, the City's broad allowance for in-kind replacement of existing Pier and Dock structures, therefore not requiring consistency with the new dock standards in 20.25E.065.H.4 would appear to not be consistent with the SMP-Guidelines and NNL requirements.</p> <p>Required Change: Similar to comments provided above, The City will need to amend the draft SMP to maintain consistency with applicable SMP-Guideline requirements. Further, within 20.25E.065.H.4, the footnotes or requirement listed under the column "Alternative Standard or Limitation When Allowed" should be changed from "State and Federal Approval (4)" to "<u>Shoreline Variance (3)</u>" within the rows titled: "Maximum Dock Size – sq." and "Maximum Walkway width", otherwise the standards look sufficient. These requirements are dimensional standards that according to the SMP-Guidelines need to allow the minimum size necessary and also could affect the cumulative impacts within the City, for which any relief from these standards need to be considered through a Shoreline Variance.</p> <p><u>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</u></p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate</u></p>	<p>CITATION: See 20.25E.065.H (residential moorage), .070.C, .080.E. Mitigation plan is required with CUP per .080.E.4.b (which refers back to .060.D).</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>(within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	
FILL WAC 173-26-231(3)(c)			
Definition of "fill" consistent with WAC 173-26-020(14).	<u>20.25E.280</u>	<i>Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.</i>	COMPLIANT – No further work needed.
Location, design, and construction of all fills protect ecological processes and functions, including channel migration. WAC 173-26-231(3)(c).	<u>20.25E.25E.080.C.1.C</u>	<i>Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.</i>	COMPLIANT – No further work needed.
Fill waterward of the OHWM allowed only by shoreline conditional use permit, for: Water-dependent use; Public access; Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; Disposal of dredged material in accordance with DNR Dredged Material Management Program; Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible); Mitigation action, environmental restoration, beach nourishment or enhancement project. WAC 173-26-231(3)(c).	<u>Not Found</u> <u>20.25E.080.C.1</u>	Non-Compliant <u>TBD</u> : (Ecology 3/2013) Through review of section 20.25E.080.C.1, Ecology could not find a SMP-standard that requires a "Conditional Use Permit" for fill placed waterward of the OHWM, as required by the referenced SMP-Guideline requirement (173-26-231(3)(c)). Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement. <u>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</u>	CITATION: See 20.25E.080.C.1. MINOR EDIT: Could add CUP requirement for fill placed waterward of the OHWM.
BREAKWATERS, JETTIES, AND WEIRS WAC 173-26-231(3)(d)			
Structures waterward of the ordinary high-water mark allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. WAC 173-26-231(3)(d).	<u>Not Found</u> <u>20.25E.080.B (1.-3.)</u>	Non-Compliant: (Ecology 3/2013) Through review of section 20.25E.080.B of the draft SMP, Ecology could not find a provision that appropriately limit the consideration of "Breakwaters", "Jetties" or "Groins" to water-dependent or public purposes as required by the SMP-Guidelines at WAC	CITATION: See 20.25E.080.B.1 (jetties and groins prohibited); 20.25E.080.B.2 (breakwaters limited)

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>1173-26-231 (3) (d).</p> <p>Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</p>	
<p>Shoreline conditional use permit required for all structures except protection/restoration projects. WAC 173-26-231(3)(d).</p>	<p><u>20.25E.080.B.3</u></p>	<p>Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement for a Conditional Use Permit.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Protection of critical areas and appropriate mitigation required. WAC 173-26-231(3)(d).</p>	<p>Not Found <u>20.25E.080.B.3 (b, d, and e)</u></p>	<p>Non-CompliantTBD: (Ecology 3/2013) Through review of section 20.25E.080.B, Ecology could not find a provision that ensures protection and mitigation of critical areas as required by the SMP-Guidelines at WAC 1173-26-231 (3) (d).</p> <p>Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p>In addition to identification of relevant policies and development standards,</p>	<p>CITATION: See 20.25E.080.B.3.b, d, e. Refers to CAO – all modifications in shoreline jurisdiction must comply with CAO regulations.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	
DUNES MANAGEMENT WAC 173-26-231(3)(e)			
Development setbacks from dunes prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dunes. WAC 173-26-231(3)(e).	N/A	<i>N/A: The City does not have "Dunes" that would require specific provisions management with the updated SMP.</i>	N/A; no response needed
Dune modifications allowed only when consistent with state and federal flood protection standards and result in no net loss of ecological processes and functions. WAC 173-26-231(3)(e).	N/A	<i>N/A: See above.</i>	N/A; no response needed
Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy. WAC 173-26-231(3)(e).	N/A	<i>N/A: See above.</i>	N/A; no response needed
DREDGING WAC 173-26-231(3)(f)			
Dredging and dredge material disposal avoids or minimizes significant ecological impacts. Impacts which cannot be avoided are mitigated. WAC 173-26-231(3)(f).	20.25E.080.D (1.-3.)	<i>Compliant: (Ecology 3/2013) The referenced provisions appear generally consistent with the applicable SMP-Guideline requirements, as the draft SMP requires avoidance and minimization of dredging impacts.</i>	COMPLIANT – No further work needed.
New development siting and design avoids the need for new and maintenance dredging. WAC 173-26-231(3)(f).	20.25E.080.E.4.c.i Not Found	<i>Non-CompliantTBD: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found. Required Change: The City can either add a new provision to the SMP to satisfy this requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement. TBD: (Ecology 9/2013) A determination on</i>	CITATION: See 20.25E.080.E.4.c.i. MINOR EDIT: Could repeat E.4.c.i in .065.H (for residential).

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</i>	
Dredging to establish, expand, relocate or reconfigure navigation channels allowed only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. WAC 173-26-231(3)(f).	Not Found	<i>N/A: (Ecology 3/2013) Section 20.25E.080.D, does not appear to authorize expansion or reconfiguration of navigation channels.</i>	N/A; no response needed
Maintenance dredging of established navigation channels and basins restricted to maintaining previously dredged and/or existing authorized location, depth, and width. WAC 173-26-231(3)(f).	20.25E.080.D.2.a	<i>Compliant: (Ecology 3/2013) The referenced provision allowing maintenance dredging to maintain navigability, but limited to the extent of previously approved location, width and depth appears consistent with the applicable SMP-Guideline requirement.</i>	COMPLIANT – No further work needed.
Dredging for fill materials prohibited except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. Placement of fill must be <i>waterward</i> of OHWM. WAC 173-26-231(3)(f).	20.25E.080.D.2.e	<i>Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.</i>	COMPLIANT – No further work needed.
Uses of dredge material that benefits shoreline resources are addressed. If applicable, addressed through implementation of regional interagency dredge material management plans or watershed plan. WAC 173-26-231(3)(f).	20.25E.080.D.3. (e.-f.)	<i>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</i>	COMPLIANT – No further work needed.
Disposal within river channel migration zones discouraged, and in limited instances when allowed, require CUP. (Note: not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone). WAC 173-26-231(3)(f).	N/A	<i>N/A: (Ecology 3/2013) The draft SMP does not appear to allow river disposal of dredged materials.</i>	N/A; no response needed
SHORELINE HABITAT AND NATURAL SYSTEMS ENHANCEMENT WAC 173-26-231(3)(g)			
Provisions that foster habitat and natural system enhancement projects , provided the primary purpose is restoration of the natural character and functions of the shoreline, and only when consistent with implementation of the restoration plan developed pursuant to WAC 173-26-201(2)(f).	Not Found 20.25E.080.C.1.c 20.25E.080.F.4.g, h, 20.25E.080.D.2.d,	<i>Non-Compliant TBD: (Ecology 3/2013) A SMP-standard intended to satisfy this SMP-Guideline requirement could not be found. Required Change: The City can either add a new provision to the SMP to satisfy this</i>	<i>CITATION: See 20.25E.080.C.1.c (Clearing, Grading, Fill); 20.25E.080.F.4.g, h (Shoreline stabilization), 20.25E.080.D.2.d, e (Dredging), 20.25E.060.K.12 (Vegetation conservation).</i>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
	<p><u>e.</u> <u>20.25E.060.K.12</u></p>	<p>requirement, or clarify how (including a specific reference to applicable provision) the existing SMP satisfies this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) Thank you for <u>identifying the location of applicable provisions.</u></p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u></p>	
<p>Application For Relief option from expansion of SMA jurisdiction by shoreline restoration projects. RCW 90.58.580.</p>	<p>Not Found <u>20.25E.080 .F.4.g, h.</u></p>	<p>Non-CompliantTBD: (Ecology 3/2013) A provision clarifying if the City intends to implement this option, could not be found within the draft SMP.</p> <p>Required Change: Please clarify if the City intends to utilize this option? If so, add appropriate provisions to the SMP to ensure compliance with the referenced RCW.</p> <p>TBD: (Ecology 9/2013) Thank you for <u>identifying the location of applicable provisions.</u></p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u></p>	<p>CITATION: See 20.25E.080.F.4.g, h.</p>
SPECIFIC SHORELINE USES			
AGRICULTURE WAC 173-26-241(3)(a)			
<p>Use of agriculture related terms is consistent with the specific meanings provided in RCW 90.58.030 and .065.</p>	<p><u>20.25E.280</u></p>	<p>Compliant: (Ecology 3/2013) The “agriculture” definition appears consistent with the applicable SMP-Guideline</p>	<p>COMPLIANT – No further work needed.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Provisions address new agricultural activities, conversion of agricultural lands to other uses, and other development not meeting the definition of agricultural activities.</p> <p>Provisions assure that development in support of agricultural uses is: (A) consistent with the environment designation; and (B) located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values. WAC 173-26-241(3)(a)(ii) & (v).</p>	20.25E.030	<p><i>requirements.</i></p> <p>Compliant: (Ecology 3/2013) <i>It appears that the City intends to allow existing agriculture to continue, but will prohibit new agriculture within their shoreline jurisdiction. This decision is up to the local government and appears consistent with applicable SMP-Guideline requirements.</i></p>	COMPLIANT – No further work needed.
<p>Shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).</p>	N/A	<p>N/A: (Ecology 3/2013) <i>See above, the City have chosen to prohibit new agriculture in shoreline jurisdiction.</i></p>	N/A; no response needed
<p>Conversion of agricultural land to non-agricultural uses is consistent with the environment designation, and regulations applicable to the proposed use do not result in a net loss of ecological functions. WAC 173-26-241(3)(a)(vi).</p>	N/A	<p>Generally Compliant: (Ecology 3/2013) <i>It is assumed that the City would look at any conversion as a new use, for which they would need to evaluate SMP consistency.</i></p>	N/A – no agricultural land in Bellevue.
AQUACULTURE WAC 173-26-241(3)(b)			
<p>Definition of aquaculture consistent with WAC 173-26-020(6) and -241(3)(b)(i)(A).</p>	20.25E.070 20.25E.280	<p>Non-CompliantTBD: (Ecology 3/2013) <i>The “Aquaculture” definition has been stricken. Even though the City only allow Aquaculture as a CUP in the Aquatic designation, a definition of the use is still required.</i></p> <p>Required Change: <i>Revise the SMP to include a definition for Aquaculture consistent with the referenced section of the SMP-Guidelines.</i></p> <p>TBD: (Ecology 9/2013) <i>A determination on consistency can be provided, upon review of the City’s future amendment to this provision within the draft SMP.</i></p>	<p>CITATION: See 20.25E.070 (Specific Use Regulations) and .280 (definition).</p> <p>MINOR EDIT: Could add definition consistent with WAC (leave off 2nd sentence since Bellevue has no marine shoreline). OR defer to definition included in WAC.</p>
<p>Aquaculture is defined as dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. WAC 173-26-241(3)(b)(i)(A).</p>	20.25E.280	<p>Non-CompliantTBD: (Ecology 3/2013) <i>Same comment as above.</i></p> <p>TBD: (Ecology 9/2013) <i>A determination on consistency can be provided, upon review of</i></p>	<p>CITATION: See 20.25E.070.B.2.</p> <p>MINOR EDIT: could add statement that aquaculture is water-dependent and a</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>the City's future amendment to this provision within the draft SMP.</i>	preferred use.
SMP recognizes that potential locations for aquaculture are restricted, technology associated with some forms of present-day aquaculture is still in its formative stages and experimental, and recognizes the need for some latitude in the development of this use as well as its potential impact on existing uses and natural systems. WAC 173-26-241(3)(b)(i)(B).	20.25E.030 Resource Chart 3 Not found	Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP. Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement. Compliant: (Ecology 9/2013) thank you for clarifying the location of this provision, which appears generally consistent with applicable SMP-Guideline requirements.	CITATION: See 20.25E.030 – Aquaculture identified as permitted use subject to Shoreline CUP.
General ecological siting considerations: Provisions require consideration of local ecological conditions and providing limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions. WAC 173-26-241(3)(b)(i)(A). Aquaculture is not permitted in areas where it would result in a net loss of ecological functions or adversely impact eelgrass and/or macroalgae . Impacts to ecological functions shall be mitigated consistent with the mitigation sequence. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new nonnative species which cause significant ecological impacts. WAC 173-26-241(3)(b)(i)(C).	20.25E.070.B. (2.- .3)	Compliant: (Ecology 3/2013) The referenced provisions appear generally consistent with applicable SMP-Guideline requirements.	COMPLIANT – No further work needed.
Aquaculture is not permitted in areas where it would significantly conflict with navigation and other water-dependent uses . WAC 173-26-241(3)(b)(i)(C).	20.25E.070.B.2.g	Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.	COMPLIANT – No further work needed.
Aquacultural facilities should not significantly impact the aesthetic qualities of the shoreline. WAC 173-26-241(3)(b)(i)(C).	20.25E.070.B.2.d	Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.	COMPLIANT – No further work needed.
Provisions must ensure proper management of upland uses to avoid degradation of water quality of existing shellfish areas. WAC 173-26-241(3)(b)(i)(D). Inventory and characterization must include information specific to	20.25E.030 Resource Chart 3 Not Found	Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.	N/A – no shellfish areas in Bellevue

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>siting in-water uses and development, including intertidal property ownership, aquaculture operations, shellfish beds, shellfish protection districts, and areas that meet health shellfish water quality certification requirements. WAC 173-26-201(3)(c)(xi).</p> <p>Review of data and information specific to shellfish areas must also be done as part of the inventory and characterization. WAC 173-26-201(3)(d)(vii).</p>		<p>Required Change: <i>Revise the SMP for consistency with the referenced SMP-Guideline requirement.</i></p> <p>Compliant: <i>(Ecology 9/2013) The City's SMP lists "Aquaculture" as a Conditional Use, therefore consistency would be determined through individual project review and consistency with the CUP criteria provided in WAC 173-27-160.</i></p>	
<p>Provisions require reserve of shoreline space for shoreline preferred uses, specifically existing shellfish protection districts and critical habitats. WAC 173-26-211(5)(c)(ii)(G).</p>	<p>20.25E.030 Resource Chart 3 Not Found</p>	<p>Non-Compliant: <i>(Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.</i></p> <p>Required Change: <i>Revise the SMP for consistency with the referenced SMP-Guideline requirement.</i></p> <p>Compliant: <i>(Ecology 9/2013) The City's SMP lists "Aquaculture" as a Conditional Use, therefore consistency would be determined through individual project review and consistency with the CUP criteria provided in WAC 173-27-160.</i></p>	<p>N/A – no shellfish areas in Bellevue</p>
<p>Subsistence, commercial and recreational shellfish beds are included in the definition of critical saltwater habitats. The inclusion of commercial aquaculture does not limit its regulation as a use. Reserving shoreline areas for protecting and restoring ecological functions should be done prior to reserving shoreline areas for uses. WAC 173-26-221(2)(c)(iii).</p>	<p>20.25E.030 Resource Chart 3 Not Found</p>	<p>Non-Compliant: <i>(Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.</i></p> <p>Required Change: <i>Revise the SMP for consistency with the referenced SMP-Guideline requirement.</i></p> <p>Compliant: <i>(Ecology 9/2013) The City's SMP lists "Aquaculture" as a Conditional Use, therefore consistency would be determined through individual project review and consistency with the CUP criteria provided in WAC 173-27-160.</i></p>	<p>N/A – Aquaculture is limited to areas waterward of OHWM.</p>
<p>Commercial geoduck aquaculture siting considerations</p>	<p>N/A</p>	<p>N/A: <i>(Ecology 3/2013) The City does not have marine water SMA-jurisdiction.</i></p>	<p>N/A; no response needed</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading . WAC 173-26-241(b)(ii)	N/A	N/A: (Ecology 3/2013) See above.	N/A; no response needed
As determined by Attorney General Opinion 2007 No. 1, the planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific product or practice causes substantial interference with normal public use of the surface waters, but not otherwise. WAC 173-26-241(b)(iii)	N/A	N/A: (Ecology 3/2013) See above.	N/A; no response needed
Conditional use permits are required for new commercial geoduck aquaculture only. Where the applicant proposes to convert existing nongeoduck aquaculture to geoduck aquaculture, the requirement for a conditional use permit is at the discretion of local government. Public notice must be provided to tribes and adjacent property owners. Limits and conditions to achieve no net loss must be used. WAC 173-26-241(b)(iv)(A) - (L).	N/A	N/A: (Ecology 3/2013) See above.	N/A; no response needed
BOATING FACILITIES WAC 173-26-241(3)(c)			
Definition: Boating facility standards do not apply to docks serving four or fewer SFRs. WAC 173-26-241(3)(c).	<u>Not Found</u> <u>20.25E.080.E</u>	Non-Compliant: (Ecology 3/2013) A definition for “Boating Facilities” could not be found within the draft SMP. The SMP-Guidelines (WAC 173-26) list “Boating Facilities” as a “Shoreline Use”. The City’s SMP provide provisions for “Non-Residential Moorage Facilities as a “Shoreline Modification” in section 20.25.080.E. Required Change: Amend the SMP to clarify if provisions in section 20.25.080.E are intended to address “Boating Facilities” and add relevant criteria (serving 4 or more residences) to ensure consistency with SMP-Guidelines. <u>TBD:</u> (Ecology 9/2013) Thank you for identifying the location of applicable provisions. <u>In addition to identification of relevant policies and development standards,</u>	CITATION: See 20.25E.080.E. Boating Facilities per the WAC are equivalent to the City’s provisions for non-residential moorage facilities, which do not apply to docks serving four or fewer single-family residences.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	
Boating facilities restricted to suitable locations . WAC 173-26-241(3)(c)(i).	20.25E.080.E.4.B	Compliant: (Ecology 3/2013) Subject to compliance with above required changes, the referenced provision appears consistent with the applicable SMP-Guideline requirements.	COMPLIANT – No further work needed.
Provisions ensuring health, safety, and welfare requirements are met. WAC 173-26-241(3)(c)(ii)	Not Found 20.25E.080.E.4, and c.viii, d.xi, and d.xvi 20.25E.070.C.3.c and e.	Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP. Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement. TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions. <i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	CITATION: See 20.25E.080.E.4, particularly c.viii, d.xi, and d.xvi (Non-residential moorage facilities, boat ramps, and launches). Also, 20.25E.070.C.3.c and e (Recreation)
Provisions to avoid or mitigate aesthetic impacts . See WAC 173-26-241(3)(c)(iii).	20.25E.080.E.4.c.i v and x; d.vi, vii, and xi (1) Not Found 20.25E.070.C.3.b. iii and iv, c.iv-viii, d.iii-v, e.i.	Non-Compliant TBD: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP. Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement. TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.	CITATION: See 20.25E.080.E.4.c.iv and x; d.vi, vii, and xi (1) (Non-residential moorage facilities, boat ramps, and launches). Also, 20.25E.070.C.3.b.iii and iv, c.iv-viii, d.iii-v, e.i.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	
Public access required in new boating facilities. WAC 173-26-241(3)(c)(iv).	20.25E.060.I , .070.C.3.d.ii , and .080.E.4.d.xiii . Not Found	Non-Compliant: (Ecology 3/2013) The SMP only provides a cross-reference to the "Public Access" section (20.25E.060.I) of the SMP. Required Change: Please clarify, how the referenced section of the City's SMP, satisfies the referenced SMP-Guideline requirement.	CITATION: See 20.25E.060.I, .070.C.3.d.ii, and .080.E.4.d.xiii. SUBSTANTIVE
Impacts of live-aboard vessels are limited. WAC 173-26-241(3)(c)(v).	20.25E.080.4.c.viii .	Compliant: (Ecology 3/2013) the referenced provision appears generally consistent with the applicable SMP-Guideline requirements.	COMPLIANT – No further work needed.
Provisions assuring no net loss of ecological functions as a result of development of boating facilities while providing public recreational opportunities. WAC 173-26-241(3)(c)(vi).	20.25E.080.4.b .	Compliant: (Ecology 3/2013) the referenced provision appears generally consistent with the applicable SMP-Guideline requirements.	COMPLIANT – No further work needed.
Navigation rights are protected. WAC 173-26-241(3)(c)(vii).	20.25E.080.E.4.d.i and xii . Not Found	Non-Compliant: (Ecology 3/2013) A provision to satisfy this SMP-Guideline requirement could not be found. Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy's this SMP-Guideline requirement. Compliant: (Ecology 9/2013) Thank you for the citations, which appear consistent with the referenced SMP-Guideline requirement.	CITATION: See 20.25E.080.E.4.d.i and xii.
Extended moorage on waters of the state without a lease or permission is restricted, and mitigation of impacts to navigation and access is required. WAC 173-26-241(3)(c)(viii).	20.25E.020.D and .030 Not Found	Non-CompliantTBD: (Ecology 3/2013) A provision to satisfy this SMP-Guideline requirement could not be found.	CITATION: See Use Charts 20.25E.020.D and .030 Since extended moorage is not allowed, it is prohibited.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy's this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</p>	<p>MINOR EDIT: could add language repeating language in right column.</p>
COMMERCIAL DEVELOPMENT WAC 173-26-241(3)(d)			
<p>Preference given first to water-dependent uses, then to water-oriented commercial uses. WAC 173-26-241(3)(d).</p>	<p><u>Not Found</u> 20.25E.020.A 20.25E.030 (Chart #3)</p>	<p>Non-Compliant: (Ecology 3/2013) Ecology could not find a standard that clearly satisfied the SMP-Guideline requirement.</p> <p>The "Use Preferences" listed in section 20.25E.020.A are <u>not</u> consistent with either the SMA (RCW 90.58) or the SMP-Guidelines (WAC 173-26), for which this section will need to be amended.</p> <p>Chart #3 (Section 20.25E.030) is confusing and does not appear to be internally consistent with other sections of the draft SMP, nor does it appear to be consistent with the SMP-Guidelines.</p> <p>Required Change: The "Use Preferences" listed in section 20.25E.020.A, will need to be amended to be consistent with the SMA (RCW 90.58) and the SMP-Guidelines.</p> <p>Amend "Commercial" Use provisions within the SMP to include new standards consistent with the referenced SMP-Guideline requirement.</p> <p>TBD (Ecology 9/2013) 20.25E.020.A is still a concern – to discuss.</p>	<p>CITATION: See 20.25E.030 (Wholesale and retail uses) and 20.25E.040.G.3. Most commercial uses (except water dependent/related/ enjoyment) are prohibited. Only allowed uses are residential commercial (e.g., assisted living, nursing homes), some of which require SCUP.</p>
<p>Water-enjoyment and water-related commercial uses required to provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access.</p>	<p><u>Not Found</u></p>	<p>Non-Compliant: (Ecology 3/2013) Same comment as above.</p>	<p>CITATION: See 20.25E.060.I.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
WAC 173-26-241(3)(d).			SUBSTANTIVE
New non-water-oriented commercial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(d).	<u>Not Found Goal 8</u> <u>Policies: SH-2, SH-5, SH-8, SH-13, SH-27, SH-67, SH-68, SH-78</u> <u>20.25E.030</u>	Non-Compliant <u>TBD: (Ecology 3/2013) Same comment as above.</u>	CITATION: See 20.25E.030 (Wholesale and retail chart, residential chart, transportation and utilities chart) – prohibit/restrict non-water-oriented commercial uses. Also, see Goal 8 and Policies SH-2, SH-5, SH-8, SH-13, SH-27, SH-67, SH-68, SH-78.
Non-water-dependent commercial uses over water prohibited except in existing structures, and where necessary to support water-dependent uses. WAC 173-26-241(3)(d).	<u>Not Found Goal 8</u> <u>Policies: SH-2, SH-5, SH-8, SH-13, SH-27, SH-67, SH-68, SH-78</u> <u>20.25E.030</u>	Non-Compliant: (Ecology 3/2013) Same comment as above.	CITATION: See 20.25E.030 (Wholesale and retail chart, residential chart, transportation and utilities chart) – prohibit/restrict non-water-dependent commercial uses. Also, see Goal 8 and Policies SH-2, SH-5, SH-8, SH-13, SH-27, SH-67, SH-68, SH-78.
FOREST PRACTICES WAC 173-26-241(3)(e)			
Forest practices not covered by the Forest Practices Act, especially Class IV-General forest practices involving conversions to non-forest use result in no net loss of ecological functions and avoid impacts to navigation, recreation and public access. WAC 173-26-241(3)(e).	20.25E.020.D.2.b.	<u>N/A: (Ecology 3/2013) The referenced section illustrates the City's intention to "prohibit" Forest Practices within the City's shoreline areas.</u>	N/A; no response needed
SMP limits removal of trees on shorelines of statewide significance (RCW 90.58.150). Exceptions to this standard require shorelines conditional use permit. WAC 173-26-241(3)(e).	N/A	<u>N/A: (Ecology 3/2013) See above.</u>	N/A; no response needed
INDUSTRY WAC 173-26-241(3)(f)			
Preference given first to water-dependent uses, then to water-oriented industrial uses. WAC 173-26-241(3)(f).	<u>Not Found</u> <u>20.25E.030</u>	Non-Compliant: (Ecology 3/2013) Same comment as provided above under "Commercial Uses". <u>Compliant: (Ecology 9/2013) Thank you for identifying that "Industrial" uses will be "prohibited" within the updated SMP. Therefore, Industrial development standards are not required in the updated SMP, as these types of uses will not be allowed within shoreline jurisdiction.</u>	CITATION: no industrial uses permitted – see use charts in 20.25E.030 – Use Charts.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
Location, design, and construction of industrial uses and redevelopment required to assure no net loss of ecological functions. WAC 173-26-241(3)(f).	20.25E.030 Not Found	Non-Compliant: (Ecology 3/2013) Same comment as provided above under " Commercial-Industrial Uses ".	CITATION: no industrial uses permitted – see use charts in 20.25E.030 – Use Charts.
Industrial uses and redevelopment encouraged to locate where environmental cleanup and restoration can be accomplished. WAC 173-26-241(3)(f).	20.25E.030 Not Found	Non-Compliant: (Ecology 3/2013) Same comment as provided above under " Commercial-Industrial Uses ".	CITATION: no industrial uses permitted – see use charts in 20.25E.030 – Use Charts.
Public access required unless such a requirement would interfere with operations or create hazards to life or property. WAC 173-26-241(3)(f).	20.25E.030 Not Found	Non-Compliant: (Ecology 3/2013) Same comment as provided above under " Commercial-Industrial Uses ".	CITATION: no industrial uses permitted – see use charts in 20.25E.030 – Use Charts.
New non-water-oriented industrial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(f).	20.25E.030 Not Found	Non-Compliant: (Ecology 3/2013) Same comment as provided above under " Commercial-Industrial Uses ".	CITATION: no industrial uses permitted – see use charts in 20.25E.030 – Use Charts.
IN-STREAM STRUCTURES WAC 173-26-241(3)(g)			
Definition: structure is waterward of the ordinary high water mark and either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. WAC 173-26-241(3)(g).	Not Found 20.25H.055.C.d.	TBD: (Ecology 3/2013) It is not clear if the City anticipate the need for "In-Stream Structures" within the limited river segments of Shoreline jurisdiction? If so, then appropriate provisions will need to be added to the SMP to satisfy this SMP-Guideline requirement. TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions. In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.	CITATION: See 20.25H.055 (Critical Areas Overlay), specifically 20.25H.055.C.3.d.
In-stream structures protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, shoreline critical areas,	Not Found 20.25H.055.C.3.d	TBD: (Ecology 3/2013) Same comment as above.	CITATION: See 20.25H.055C.3.d (Critical Areas Overlay).

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
hydrogeological processes, and natural scenic vistas. WAC 173-26-241(3)(g).			
MINING WAC 173-26-241(3)(h)			
Policies and regulations for new mining projects: Require design and operation to avoid and mitigate for adverse impacts during the course of mining and reclamation; Achieve no net loss of ecological functions based on required final reclamation; Give preference to proposals that create, restore or enhance habitat for priority species are coordinated with state Surface Mining Reclamation Act requirements; Assure subsequent use of reclaimed sites is consistent with environment designation and SMP standards. WAC 173-26-241(3)(h)(ii)(A) – (C).	<u>20.25E.020.D.2.a</u>	<i>N/A: (Ecology 3/2013) The referenced section illustrates the City's intention to "prohibit" Mining within the City's shoreline areas.</i>	N/A; no response needed
Mining waterward of OHWM is prohibited unless: (I) Removal of specified quantities of materials in specified locations will not adversely impact natural gravel transport; (II) The mining will not significantly impact priority species and the ecological functions upon which they depend; and (III) these determinations are integrated with relevant SEPA requirements. WAC 173-26-241(3)(h)(ii)(D).	<u>N/A</u>	<i>N/A: (Ecology 3/2013) See above</i>	N/A; no response needed
Renewal, extension, or reauthorization of in-stream and gravel bar mining activities require review for compliance with these new guidelines requirements. WAC 173-26-241(3)(h)(ii)(D)(IV).	<u>N/A</u>	<i>N/A: (Ecology 3/2013) See above</i>	N/A; no response needed
Mining within the Channel Migration Zone requires a shoreline conditional use permit. WAC 173-26-241(3)(h)(ii)(E).	<u>N/A</u>	<i>N/A: (Ecology 3/2013) See above</i>	N/A; no response needed
RECREATIONAL DEVELOPMENT WAC 173-26-241(3)(i)			
Definition includes commercial and public recreation developments. WAC 173-26-241(3)(i).	<u>20.25E.070.C.1</u>	<i>Compliant: (Ecology 3/2013) The referenced provision references both "public" and "private" recreational facilities, which appears consistent with the referenced SMP-Guideline requirement.</i>	COMPLIANT – No further work needed.

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Priority given to recreational development for access to and use of the water. WAC 173-26-241(3)(i).</p>	<p><u>20.25E.070.C.3.b. (i. – ii.)</u></p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with use priority (preference for Water-Dependent Uses) required by the SMP-Guidelines.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Location, design and operation of facilities are consistent with purpose of environment designations in which they are allowed. WAC 173-26-241(3)(i).</p>	<p><u>20.25E.070.C.3.c</u></p>	<p>Non-CompliantTBD: (Ecology 3/2013) The referenced provisions appear generally in line with the intent of the SMP, but do not require consistency with the stated purpose of the shoreline environment that the Recreational Facility is located within.</p> <p>Required Change: Amend the SMP to include a provision that requires consistency with the stated purpose of the shoreline environment, that the Recreational Facility is located within, consistent with applicable SMP-Guidelines requirements.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u></p>	<p>CITATION: See 20.25E.070.C.2 and 3 and 20.25E.030 (Recreation Chart). Higher-intensity recreation facilities are permitted in the RB environment, with parks and lower-intensity uses allowed in other environments subject to SCUP.</p>
<p>Recreational development achieves no net loss of ecological processes and functions. WAC 173-26-241(3)(i).</p>	<p><u>20.25E.060.B</u> <u>20.25E.070.C.2.g</u> <u>Not Found</u></p>	<p>Non-CompliantTBD: (Ecology 3/2013) DRAFT-SMP provisions in section 20.25E.070.C.3. (c. and d.) do not appear to satisfy this SMP-Guideline requirement.</p> <p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy’s this SMP-Guideline requirement.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable</p>	<p>CITATION: 20.25E.060.B contains a No Net Loss requirement. 20.25E.070.C.2.g requires mitigation/restoration and 3.c.iii requires designs that do not degrade functions during construction or operation.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p><u>provisions.</u></p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u></p>	
RESIDENTIAL DEVELOPMENT WAC 173-26-241(3)(j)			
<p>Definition includes single-family residences, multifamily development, and the creation of new residential lots through land division. WAC 173-26-241(3)(j).</p>	<p>Not Found</p>	<p>Non-CompliantTBD: (Ecology 3/2013) A definition for “Residential Use” consistent with the referenced SMP-Guideline requirement could not be found in sections 20.25E.065 (Residential Regulations) or 20.25E.280 (Definitions).</p> <p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy’s this SMP-Guideline requirement.</p> <p><u>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City’s future amendment to this provision within the draft SMP.</u></p>	<p>MINOR EDIT: could add a definition in 20.25E.280, but intro to .280 states that WAC definitions apply</p>
<p>Single-family residences identified as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. WAC 173-26-241(3)(j).</p>	<p>20.25E.020.A</p>	<p>Non-CompliantTBD: (Ecology 3/2013) Provision 20.25E.020.A (Shoreline Use Preferences) is not consistent with either the SMA or SMP-Guidelines.</p> <p>Required Change: Amend the SMP to include a new provision to satisfy the referenced SMP-Guideline requirement.</p> <p><u>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City’s future amendment to this provision within the draft SMP.</u></p>	<p>CITATION: See 20.25E.020.A.2.a (Shoreline use preferences); 20.25E.010.F (for SSWS). For uses that require alternation of shorelines of the state, priorities are in 20.25E.020.A.2.</p> <p>Minor EDIT: language could be added to 2.a and .065 to include the “manner consistent” reference.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>No net loss of ecological functions assured with specific standards for setback of structures sufficient to avoid future stabilization, buffers, density, shoreline stabilization, and on-site sewage disposal. WAC 173-26-241(3)(j).</p>	<p><u>Not Found</u> <u>20.25E.065.B.2.a</u> <u>20.25E.065.C</u> <u>20.25E.065.D</u> <u>20.25E.065.E</u> <u>20.25E.160.E</u></p>	<p>Non-Compliant: (Ecology 3/2013) A standard requiring “no net loss of shoreline ecological function” from new or expanded Residential use, was not found in the draft SMP.</p> <p>Ecology will wait to review the City’s (future) Cumulative Impact Assessment (CIA) prior to determining the adequacy of dimensional standards (20.25E.065.C, 20.25E.065.D, and 20.25E.065.E) to adequately protect ecological functions. However, Ecology does have the following concerns related to the current standards:</p> <ul style="list-style-type: none"> • It is not clear how the City will be able to satisfy SMP-Guideline consistency to maintain No Net Loss and implement the principles of WAC 173-26-221 (5) (b) while also exempting the Shoreline Residential and Shoreline Residential Canal designations from vegetation conservation standards. • Authority provided through the “Special Shoreline Report” (20.25E.160.E) is not consistent with SMP-Guideline requirements, as the report appears to provide a undefined amount of “flexibility” to setback, moorage, and stabilization standards in the SMP, without requiring a shoreline Variance. • Throughout the DRAFT-SMP setbacks are referenced to a survey elevation based on “NAVD 88” datum, which is inconsistent with both the SMA (RCW 90.58) and the SMP-Guidelines (WAC 173-26), which reference “Ordinary High Water Mark”. <p>Required Change: The SMP should be amended to include appropriate standards to satisfy consistency with the referenced</p>	<p>TBD after SMP submittal</p> <p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>New over-water residences and floating homes prohibited. Appropriate accommodation for existing floating or over-water homes. WAC 173-26-241(3)(j).</p>	<p>20.25.030 Residential Chart 7 Not Found</p>	<p><i>SMP-Guideline requirement.</i></p> <p>Non-Compliant: (Ecology 3/2013) DRAFT-SMP provisions in section 20.25E.065 do not prohibit new “over-water residences” or “floating homes”, as required by the SMP-Guidelines.</p> <p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy’s this SMP-Guideline requirement.</p> <p>Compliant: (Ecology 9/2013) Chart 7 prohibit single and multiple residential uses in the “aquatic” designation. Therefore these draft SMP provisions appear consistent with the referenced SMP-Guideline requirement.</p>	<p>CITATION: See 20.25E.030 (Residential chart). No floating homes currently exist, and no new such uses are permitted.</p>
<p>New multiunit residential development (including subdivision of land for more than four parcels) required to provide community and/or public access in conformance to local public access plans. WAC 173-26-241(3)(j).</p>	<p>Not Found</p>	<p>Non-Compliant: (Ecology 3/2013) DRAFT-SMP provisions in section 20.25E.065 do not appear to address “Multiunit” residential development as required by the SMP-Guidelines.</p> <p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy’s this SMP-Guideline requirement.</p>	<p>SUBSTANTIVE</p>
<p>New (subdivided) lots required to be designed, configured and developed to:</p> <ul style="list-style-type: none"> (i) Prevent the loss of ecological functions at full build-out; (ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures; and (iii) Be consistent with applicable SMP environment designations and standards. WAC 173-26-241(3)(j) 	<p>Not Found 20.25E.060.I</p>	<p>Non-Compliant: (Ecology 3/2013) Specific public access requirements related to either multiunit or subdivision of Residential lots could not be found within the DRAFT SMP. Further, provision 20.25.060.I states that “Residential development is not required to provide public access”, which does not appear to be consistent with referenced SMP-Guideline requirements.</p>	<p>SUBSTANTIVE</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy's this SMP-Guideline requirement.</p>	
<p>Floating Homes: Certain ones must be classified as a “conforming preferred use” per RCW 90.58.270(5).</p>	<p>20.25E.030 Chart 7 Not Found</p>	<p>Non-Compliant: (Ecology 3/2013) DRAFT-SMP provisions in section 20.25E.065 do not prohibit new “over-water residences” or “floating homes”, as required by the SMP-Guidelines.</p> <p>Required Change: Amend the SMP to include a new provision to satisfy this SMP-Guideline requirement, or provide a specific reference and supporting rationale for how an existing SMP provision satisfy's this SMP-Guideline requirement.</p> <p>Compliant: (Ecology 9/2013) <u>As concluded above, chart #7 prohibits single and multiple residential uses in the “aquatic” designation. Therefore it appears that this requirement has been satisfied.</u></p>	<p>CITATION: See 20.25E.030 (Residential chart). No floating homes currently exist, and no new such uses are permitted.</p>
<p>Nonconforming Residential Structures: SMPs may contain provisions allowing structures not meeting current standards to be considered “conforming” per RCW 90.58.620.</p>	<p>20.25E.065.I Not Found Request Clarity</p>	<p>Non-Compliant TBD: (Ecology 3/2013) The DRAFT-SMP provides multiple “non-conforming” provisions, for which it is not clear which of these provisions apply to the variety of shoreline “uses” or “modifications” regulated by the City's SMP?.</p> <p>Required Change: Please review all “nonconforming” sections/provisions within the DRAFT-SMP and combine or clarify how the different provisions apply.</p> <p>TBD: (Ecology 9/2013) <u>Thank you for identifying the location of applicable provisions.</u></p> <p><u>In addition to identification of relevant policies and development standards,</u></p>	<p>CITATION: See 20.25E.065.I for nonconforming residential development.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<i>Ecology encourages the City to demonstrate (within this checklist or the CIA) "how" the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</i>	
TRANSPORTATION FACILITIES WAC 173-26-241(3)(k)			
Proposed transportation and parking facilities must be designed and located where they will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions, or adversely impact existing or planned water dependent uses. WAC 173-26-241(3)(k).	20.25E.070.3.b (i. – iv.)	<i>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with applicable SMP-Guideline requirements.</i>	COMPLIANT – No further work needed.
Circulation system plans include systems for pedestrian, bicycle, and public transportation where appropriate. WAC 173-26-241(3)(k).	20.25E.070.D.3.b. v 20.25E.070.C.3.i <u>Not Found</u>	<i>Non-CompliantTBD: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP. Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement. TBD (Ecology 9/2013) Thank you for the clarification. Please note: If non-SMP policies are relied upon to satisfy SMP-Guideline requirements, then these policies need to be included or formally referenced as part of the SMP.</i>	CITATION: See 20.25E.070.D.3.b.v (New and expanded transportation uses and development) and 20.25E.070.C.3.i (Trails). Also, City relies on official policies embedded elsewhere: Pedestrian/Bicycle Plan, Transportation Facilities Plan, and Capital Investment Program.
Parking allowed only as necessary to support an authorized shoreline use and which minimize environmental and visual impacts of parking facilities. WAC 173-26-241(3)(k).	20.25E.060.H.2.	<i>Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.</i>	COMPLIANT – No further work needed.
UTILITIES WAC 173-26-241(3)(l)			
Design, location and maintenance of utilities required to assure no net loss of ecological functions. WAC 173-26-241(3)(l).	20.25E.070.E.3.b. 1.-1v.	<i>Non-CompliantTBD: (Ecology 3/2013) The referenced provisions partially address some impacts related to No Net Loss, but none of the provisions specifically state a commitment or requirement to satisfy No Net Loss. Required Change: Revise the draft SMP to</i>	CITATION: See 20.25E.070.E (esp E.2.e) (mitigation/restoration); 20.25E.030 (Use charts), 20.25E.060.B and C (technical feasibility analysis). MINOR EDIT: Could add language similar to .070.E.2.e (pursuant to mitigation and/or

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>ensure consistency with referenced SMP-Guidelines requirement.</p> <p>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</p>	<p>restoration plan meeting the requirements of 20.25E.060.D (mitigation sequencing).</p>
<p>Utilities are required to be located in existing rights-of-ways whenever possible. WAC 173-26-241(3)(l).</p>	<p>20.25E..070.E.3.b .ii.</p>	<p>Compliant: (Ecology 3/2013) The referenced provision appears consistent with the applicable SMP-Guideline requirement.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Utility production and processing facilities and transmission facilities required to be located outside of SMA jurisdiction, unless no other feasible option exists. WAC 173-26-241(3)(l).</p>	<p>20I.25E.060.C Not Found</p>	<p>Non-CompliantTBD: (Ecology 3/2013) The draft SMP does not appear to provide a definition for "Utilities" or "Utilities Facility" as required to comply with the referenced SMP-Guideline requirement.</p> <p>Required Change: Revise the draft SMP to ensure consistency with referenced SMP-Guidelines requirement.</p> <p>TBD (Ecology 9/2013) See previous comments raising concerns related to "technical feasibility criteria" in the draft SMP.</p>	<p>CITATION: Subject to technical feasibility criteria at 20I.25E.060.C per use chart in 20.25E.030.</p>
<p>Existing Utilities: Not allowed to justify more intense development. WAC 173-26-211(3)(c)</p>	<p>Not Found 20.25E.070.E.2.b.</p>	<p>Non-CompliantTBD: (Ecology 3/2013) Same comment as above (i.e., no "utility" definition) and provision 20.25E.070.E.2.b. is inconsistent with the referenced SMP-Guideline requirement as the provision allows "minor expansion".</p> <p>Required Change: Revise the draft SMP to ensure consistency with referenced SMP-Guidelines requirement.</p> <p>TBD: (Ecology 9/2013) A determination on consistency can be provided, upon review of the City's future amendment to this provision within the draft SMP.</p>	<p>CITATION: Bellevue is a city that does planning under the GMA, and more intense development would require a rezone and would be subject to the rezone criteria of Part 20.30A LUC.</p> <p>MINOR EDIT: could add a statement to say "Existing utilities shall not be a sole justification for more intense development".</p>
SMP ADMINISTRATIVE PROVISIONS			
<p>This statement "Unless specifically exempted by statute, all proposed</p>	<p>Not Found</p>	<p>Non-Compliant: (Ecology 3/2013) A</p>	<p>CITATION: See 20.25E.010.C.1 (Applicability).</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program whether or not a permit is required.” must appear in the SMP. WAC 173-26-191(2)(a)(iii)(A).</p>	<p>20.25E.010.C.1</p>	<p>provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.</p> <p>Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement.</p> <p>Compliant: (Ecology 9/2013) Thank you for the citation, which generally appears consistent with the referenced SMP-Guideline requirement.</p>	
<p>Administrative provisions ensure permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property. WAC 173-26-186(5) and WAC 191(2)(a)(iii)(A).</p>	<p>Not Found 20.25E.250</p>	<p>Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.</p> <p>Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement.</p> <p>Compliant: (Ecology 9/2013) Thank you for the citation, which generally appears consistent with the referenced SMP-Guideline requirement.</p>	<p>CITATION: See 20.25E.250 (Administration).</p>
<p>Annexation: SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 are complied with.</p>	<p>Not Found Add to CIA</p>	<p>Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.</p> <p>Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement.</p> <p>Compliant: (Ecology 9/2013) Thank you for the citation, which generally appears consistent with the referenced SMP-Guideline requirement. We suggest that the City note this limitation in the CIA.</p>	<p>CITATION: Bellevue has nothing left to annex in its PAA.</p>
<p>Exemptions: Must implement exemption procedures in accordance with WAC 173-27-040(1).</p>	<p>20.25E.170 (A.-F.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p>	<p>COMPLIANT – No further work needed.</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
<p>Permit Exemption Letters: Must be prepared for projects requiring Federal Rivers & Harbors Act §10 permits and/or Federal Clean Water Act §404 permits. WAC 173-27-050.</p>	<p><u>20.25E.150.D.2.</u> (a.- b.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirement.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Retroactive SMA/GMA Relationship: RCW <u>36.70A.480</u> governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter <u>36.70A</u> RCW. The legislature intends for this act to be remedial and curative in nature, and to apply retroactively to July 27, 2003. See RCW 36.70A.480, Footnotes.</p>	<p>Not Found</p>	<p>Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP. Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement.</p>	<p>SUBSTANTIVE</p>
<p>GMA Administrative Interpretation: GMA jurisdictions SMP must contain procedures for administrative interpretation of development regulations. RCW 36.70B.110(11) & WAC 173-26-140.</p>	<p>Not Found <u>20.30K</u></p>	<p>Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP. Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement. TBD: (Ecology 9/2013) it is not clear if “Part 20.30.K” is formally part of the updated SMP (i.e., language repeated or adopted by reference)? Please clarify to ensure that appropriate SMP provisions are provided within the draft SMP to satisfy this SMP-Guideline requirement.</p>	<p>CITATION: SMP is part of the Land Use Code, which contains Part 20.30K (Interpretation of the Land Use Code).</p>
<p>Substantial Development Permits: Approved SDPs must comply with WAC 173-27-150.</p>	<p><u>20.25E.160</u> (A. – D.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Conditional Use Permit: Approved CUPs must comply with WAC 173-27-160.</p>	<p><u>20.25E.180</u> (A. – K.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p>	<p>COMPLIANT – No further work needed.</p>
<p>SMPs must specify which uses and developments require a shoreline conditional use permit (CUP).</p>	<p>Not Found <u>20.25E.030</u></p>	<p>Non-CompliantTBD: (Ecology 3/2013) The DRAFT SMP provides multiple “use charts”, many of which are not internally consistent. It is not clear which Shoreline “Uses” and “Modifications” are “Permitted”, “Conditional Uses” or are “Prohibited” by</p>	<p>CITATION: See 20.25E.030 (use charts) and .080 (modifications).</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>the SMP.</p> <p>Required Change: The multiple “Use Charts” within the DRAFT-SMP should be consolidated, reviewed for consistency with SMP “Uses”(WAC 173-26-241) and “Modifications” (WAC 173-26-231) listed in the SMP-Guidelines and then appropriately classified as either; “Permitted”, “Conditional Use” or “Prohibited”.</p> <p>TBD: (Ecology 9/2013) Thank you for identifying the location of applicable provisions.</p> <p><u>In addition to identification of relevant policies and development standards, Ecology encourages the City to demonstrate (within this checklist or the CIA) “how” the cited draft SMP provisions are consistent with the referenced SMP-Guideline requirement.</u></p>	
<p>Variances: Approved VARs must comply with WAC 173-27-170.</p>	<p><u>20.25E.190</u> (A. – G.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Permit Revisions: Must comply with the revision approval criteria of WAC 173-27-100.</p>	<p><u>20.25E.150.E.2.</u> (a. – d.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirements.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Federal Projects: Must comply with WAC 173-27-060, with differing requirement in and out of the federal Coastal Zone Management Program.</p>	<p><u>20.25E.150.D.2.</u> (a. - b.)</p>	<p>Compliant: (Ecology 3/2013) The referenced provisions appear consistent with the applicable SMP-Guideline requirement.</p>	<p>COMPLIANT – No further work needed.</p>
<p>Non-conforming uses and structures not covered by RCW 90.58.270(5), 90.58.620, and not addressed by the SMP must comply with WAC 173-27-080.</p>	<p><u>20.25E.040</u> <u>20.25E.065.I</u> Not Found</p>	<p>Non-CompliantTBD: (Ecology 3/2013) <u>The DRAFT-SMP provides multiple “non-conforming” provisions, for which it is not clear which of these provisions apply to the variety of shoreline “uses” or “modifications” regulated by the City’s SMP?</u></p> <p>Required Change: Please review all</p>	<p>CITATION: See 20.25E.040 (nonconforming shoreline conditions and 20.25E.065.I (nonconforming residential development).</p>

STATE RULE (WAC) REQUIREMENTS	LOCATION	ECOLOGY COMMENT	CITY RESPONSE
		<p>“nonconforming” sections/provisions within the DRAFT-SMP and combine or clarify how the different provisions apply.</p> <p>TBD: (Ecology 9/2013) Thank you for providing the citations. However, it is still not clear which of the many “non-conforming” provisions apply to different shoreline “uses” or “modifications”, please explain.</p>	
<p>Mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas. WAC 173-26-191(2)(a)(iii)(D)</p>	<p>TBD/Not Found</p>	<p>Non-Compliant: (Ecology 3/2013) A provision consistent with the referenced SMP-Guideline requirement could not be found within the draft SMP.</p> <p>Required Change: Revise the SMP for consistency with the referenced SMP-Guideline requirement.</p>	<p>TBD after SMP submittal</p>
<p>SMP definitions are consistent with all definitions in WAC 173-26-020, and other relevant WACs.</p>	<p>20.25E.280</p>	<p>Non-Compliant TBD: (Ecology 3/2013) See specific references within each section above identifying when a “definition” is needed.</p> <p>TBD: (Ecology 9/2013) will be reviewed upon receipt of the City’s complete submittal.</p>	<p>CITATION: See 20.25E.280 and responses to each section above where DOE indicates a “definition” is needed.</p>

DRAFT

2013

2014

		Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	
City Council			<ul style="list-style-type: none"> Evaluate SMP Update adoption risk 		<ul style="list-style-type: none"> Review conformance amendments Direction on Cumulative Impact Analysis 				<ul style="list-style-type: none"> Public Hearing on final SMP package Review/Approve final packet 		<ul style="list-style-type: none"> Final packaging (staff) Submit to Ecology 					
		<ul style="list-style-type: none"> Council Study Session Briefings on Substantive SMP Update topics and engagement with PC, as necessary 														
Ping Comm			<ul style="list-style-type: none"> Conformance amendments review, public hearing, and recommendation 													
Ecology		<ul style="list-style-type: none"> Narrowing of issues Input on CIA scope 											<ul style="list-style-type: none"> Review of complete package Public hearing 			
Consultant		<ul style="list-style-type: none"> Support staff on guideline compliance issues 	<ul style="list-style-type: none"> Cumulative Impact Analysis 													
Staff	<ul style="list-style-type: none"> Preparation for Stakeholder Engagements <ul style="list-style-type: none"> Code Drafting SEPA review * 															
Public	<ul style="list-style-type: none"> Website updates, public meetings and hearings 															

**SEPA timeline will vary depending on form of SEPA review required on final package (i.e., DNS or MDNS vs. Supplemental EIS).*

SMP Update Completion Timeline

September 30, 2013 Draft

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending the Bellevue Land Use Code for consistency with the new Shoreline Master Program and Shoreline Overlay District (Part 20.25E LUC); amending Sections _____ (____);; providing for severability; and establishing an effective date.

Comment [CoB1]: This draft does not yet address amendments to Special and Overlay District Chapter 20.25 LUC (this includes the Critical Areas Overlay).

Comment [CoB2]: After all amendments are known, all affected sections and a brief descriptor will be listed here.

WHEREAS, the Bellevue City Council has by separate Ordinance created a new Part 20.25E in the Bellevue Land Use Code providing for the use and development of properties located within the Shoreline Overlay District; and

WHEREAS, amendments to other sections of the Land Use Code are necessary to provide appropriate cross-referencing and avoid conflicts; and

WHEREAS, the Planning Commission held (a) public hearing(s) on _____ (and _____) after providing the legally required notice, with regard to the Land Use Code amendment proposed herein; and

WHEREAS, the City Council finds that the proposed conformance and consistency amendments meet the decision criteria of LUC 20.30J.135 and are consistent with the Comprehensive Plan, enhance the public health, safety, and welfare, and are not contrary to the best interest of the citizens and property owners of the City of Bellevue, as more completely analyzed in the Staff Report for the amendment dated _____; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section _____. Section 20.10.060 of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Comment [CoB3]: Sections will be numbered once all amendments are included.

20.10.060 Interpretation of map boundaries.

When uncertainty exists as to the boundaries of any use district established on the City's land use map(s), the following rules of construction shall apply:

- A. Where district boundaries are indicated as approximately following the centerline of streets, alleys or highways, the actual centerline shall be construed to be the boundary.
- B. Where district boundaries are indicated as running approximately parallel to the centerline of a street, the boundary line shall be construed to be parallel to the centerline of the street.
- C. Where district boundaries are indicated as approximately following lot or tract lines, the actual lot or tract lines shall be construed to be the boundary lines of such use district.

D. Unmapped shorelands shall automatically be assigned an Urban Conservancy environment designation, ~~considered to be within the same land use district as the adjacent upland as shown on the use district map(s).~~

Comment [CoB4]: Change reflects consistency with Ecology direction. It is not expected that Bellevue has or will have unmapped shorelands.

E. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion shall revert, shall apply to such vacated or abandoned street or alley.

F. In case uncertainty exists which cannot be determined by application of the foregoing rules, the Planning Commission shall recommend, and the City Council shall determine, the location of such use district boundaries.

G. Shoreline Overlay (S-O) District boundaries are as described in LUC ~~20.25E.010~~20.25E.010.C.1, and, with the exception of paragraph D above, are not subject to these rules of construction.

Comment [CoB5]: Internal consistency.

Comment [CoB6]: Internal consistency.

Section _____. Section 20.10.400 of the Bellevue Land Use Code is hereby amended to read as follows:

20.10.400 Use chart described – Interpretation

(Note: LUC 20.10.400 is not applicable in the Shoreline Overlay District).

Comment [CoB7]: Consistency with 20.25E.010.C.1.c

In chart 20.10.440, land use classifications and standard Land Use Code reference numbers are listed on the vertical axis. City of Bellevue land use districts are shown on the horizontal axis.

....

Section _____. Section 20.10.420 of the Bellevue Land Use Code is hereby amended to read as follows:

20.10.420 Interpretation of land use charts by Director.

(Note: LUC 20.10.420 is not applicable in the Shoreline Overlay District).

Comment [CoB8]: Consistency with 20.25E.010.C.1.c

A. Director's Authority. In the case of a question as to the inclusion or exclusion of a particular proposed use in a particular use category, the Director shall have the authority to make the final determination. The Director shall make the determination according to the characteristics of the operation of the proposed use and based upon the Director's interpretation of the Standard Land Use Coding Manual, the Standard Industrial Classification Manual and the North American Industry Classification System.

....

Section _____. Section 20.10.440 (Land Use Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Permitted uses in the Shoreline Overlay District are listed in LUC 20.25E.020.

Comment [CoB9]: Permitted uses in the SAO are now contained in 20.25E.

Section _____. Section 20.10.440 (Land Use Charts – Services) of the Bellevue Land Use Code is hereby amended to revise Note 14 to read as follows:

- (14) These uses are permitted only in Bellevue School District schools, whether under control of the School District or the City.
- (a) In the review of the proposed use or uses under the Administrative Conditional Use Permit application, Part 20.30E LUC, the following criteria shall be considered:
- (i) Consistency of the proposal with the goals and policies of the Comprehensive Plan.
 - (ii) Extent to which the physical environment will be modified by the proposal.
 - (iii) Ability to provide on-site parking facilities to accommodate intended uses under the proposal.
 - (iv) Extent of additional demand on public utilities and public services resulting from the proposal.
 - (v) Noise impacts of the proposal.
 - (vi) Traffic volumes and street classifications in the area of the proposal.
 - (vii) Compatibility of the proposal with surrounding land uses.
 - (viii) Impact of the proposal on the visual and aesthetic character of the neighborhood.

In addition, the proposed use or uses shall not be more intensive than if the school were being used as a school.

- (b) A master Conditional Use Permit listing a range of permissible uses from those permitted in the land use district as listed in LUC 20.10.440 can be obtained for the entire school by using the conditional use process, Part 20.30B or ~~Part 20.30C~~ LUC ~~20.25E.150 and .180~~. Uses listed in the permit shall be permitted outright and uses not listed but permitted as conditional uses shall obtain a Conditional Use Permit.

Comment [CoB10]: Shoreline CUPs are now addressed in 20.25E.150 and .180.

Section _____. Section 20.10.440 (Land Use Charts – Recreation) is hereby amended to revise the following use listing in all land use charts (Residential Districts, Nonresidential Districts, and Downtown Districts):

744 ~~Marinas~~, Yacht Clubs

Comment [CoB11]: Marinas will be regulated by 20.25E. Yacht clubs could be located either in shorelines or outside of them, so should remain as a use in the 20.10.440 use charts.

Section _____. Section 20.10.440 (Land Use Charts – Recreation) is hereby amended to revise Note 10 to read as follows:

- *(10) City parks are generally permitted in all zones. However, the following types of uses or facilities in City parks in single-family or R-10 zones require conditional use approval: lighted sports and play fields, sports and play fields with amplified sound, and community recreation centers, motorized boat ramps, ~~and~~ beach parks, marinas, yacht clubs, and community clubs, on Lake Washington, Lake Sammamish, Phantom Lake and Larson Lake. Nonrecreation uses in City parks in all zones outside the Downtown require conditional use approval, except that the permit requirements for wireless communication facilities shall be as set forth in LUC 20.20.195. For purposes of this requirement, “nonrecreation use” means a commercial, social service or residential use located on park property but not functionally related to City park programs and activities.

Comment [CoB12]: Consistency with 20.25E.

September 30, 2013 Draft

* Not effective within the jurisdiction of the East Bellevue Community Council.

Section _____. Section 20.10.440 (Land Use Charts – Resources) is hereby amended to delete the following use listing from all land use charts (Residential Districts, Nonresidential Districts, and Downtown Districts):

8421 Fish Hatcheries

Section _____. Section 20.20.010 (Residential Dimensional Requirements Chart) of the Bellevue Land Use Code is hereby amended by the addition of a Note (46), attached to the “Minimum Greenscape Percentage of Front Yard Setback” dimensional requirement in the Residential chart, to read as follows:

(46) Not applicable to properties located in Shoreline Overlay Districts and which have shoreline frontage. For Greenscape requirements applicable to such properties, see LUC 20.25E.065.F.

Comment [CoB13]: Greenscape requirements for certain shoreline properties are now contained in 20.25E.

Section _____. Section 20.20.010 (Dimensional Requirements Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Additional Dimensional Requirements for Shoreline Overlay Districts are found in Part 20.25E LUC.

Comment [CoB14]: Some dimensional requirements are now contained in 20.25E.050.A and .065.C.

Section _____. Section 20.20.018 of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.018 Variation in minimum requirements – Area, width and depth.

Except as set forth in LUC 20.20.017 above, in no case may the Director or any other hearing body vary the minimum requirements for minimum lot area, width of street frontage, width required in lot or depth required in lot, as stated in Chart 20.20.010, by more than 10 percent; except that this section shall not apply to planned unit developments, Part 20.30D LUC, conservation subdivisions, LUC 20.45A.060, or conservation short subdivisions, LUC 20.45B.055. See Part 20.30G LUC relating to variances from the Land Use Code and Part ~~20.30H~~20.25E LUC relating to variances from the Shoreline Master Program.

Comment [CoB15]: Shoreline variances are now addressed in 20.25E.

Section _____. Section 20.20.020 (Land Use Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Additional Dimensional Requirements for the Shoreline Overlay District are found in Part 20.25E.

Comment [CoB16]: Some dimensional requirements are now contained in 20.25E.

Section _____. Section 20.20.025 of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.025 Intrusions into required setbacks

(Note: LUC 20.20.025 is not applicable in the Shoreline Overlay District).

Comment [CoB17]: Consistency with 20.25E.010.C.1.c

A. Signs, Marquees and Awnings.

September 30, 2013 Draft

See Sign Code, Chapter 22B.10 BCC.

....

Section _____. Section 20.20.128.C.3 of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.128(C) Affordable housing.

C. Dimensional Standard Modification.

The following requirements of the Land Use Code may be modified through the procedures outlined in paragraph D of this section, to the extent necessary to accommodate affordable housing units and bonus units on-site.

....

3. Building Height. Except in Transition Areas and the Shoreline Overlay District, the maximum building height in R-10, R-15, R-20 and R-30 Zoning Districts may be increased by up to six feet for those portions of the building(s) at least 20 feet from any property line.

Comment [CoB18]: 20.25E limits heights to 35'.

....

Section _____. Section 20.20.255.B of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.255(B) Electrical utility facilities.

B. Applicability.

This section applies to all proposals for new or expanding electrical utility facilities as defined in LUC 20.50.018. Additional requirements applicable to Electrical utility facilities located within the Shoreline Overlay District are provided in Part 20.25E LUC.

Comment [CoB19]: Referral to 20.25E for additional regulations in the Shoreline Overlay.

Section _____. Section 20.20.560.E of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.560(E) Nonconforming structures, uses and sites.

E. Exceptions.

1. Downtown. The provisions of this section shall not apply in the Downtown Special Overlay District, Part 20.25A LUC. Refer to LUC 20.25A.025 for the requirements for nonconforming uses, structures, and sites located within the Downtown Special Overlay District.
2. Critical Areas Overlay District. The provisions of this section do not apply to structures or sites nonconforming to the requirements of Part 20.25H LUC. Refer to LUC 20.25H.065 for the requirements for such nonconforming structures and sites.

3. Shoreline Overlay District. The provisions of this section do not apply to uses, structures or sites nonconforming to the requirements of Part 20.25E LUC. Refer to LUC ~~20.25E.055~~[20.25E.040 and .065](#) for the requirements for such nonconforming uses, structures and sites.

Comment [CoB20]: 20.25E contains nonconforming provisions specific to shorelines.

4. Bel-Red (BR) Land Use Districts. The provisions of this section do not apply to uses, structures, or sites located in the Bel-Red Land Use Districts. For uses in the Bel-Red Land Use Districts established before May 26, 2009, refer to the existing conditions regulations in LUC 20.25D.060.

Section _____. Section 20.20.460.C of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.460 Impervious surface.

C. Modifications to Impervious Surface Limits.

The impervious surface limits contained in LUC 20.20.010 and Chapter 20.25 LUC may be modified pursuant to a critical areas report, LUC 20.25H.230, so long as the critical areas report demonstrates that the effective impervious surface on the site does not exceed the limit established in LUC 20.20.010 and Chapter 20.25 LUC, [provided, that impervious limits within the Shoreline Overlay District may be modified pursuant to a Shoreline Special Report or Shoreline Variance, as provided for by LUC 20.25E.050.C.2](#).

Comment [CoB21]: Consistency with 20.25E.050.C.2

1.

Section _____. Section 20.20.840 of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.840 Subordinate Uses.

[\(Note: LUC 20.20.840 is not applicable in the Shoreline Overlay District\).](#)

Comment [CoB22]: Consistency with 20.25E.010.C.1.c

A. Purpose.

The purpose of this section is to provide performance standards for subordinate uses, as defined in LUC 20.50.046.

....

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Section ____ Chapter 20.30 – Table of Contents - of the Bellevue Land Use Code is hereby amended to read as follows:

Chapter 20.30
PERMITS AND DECISIONS

Sections:

Part 20.30A Rezone

- 20.30A.110 Scope
- 20.30A.115 Applicability
- 20.30A.120 Purpose
- 20.30A.140 Decision criteria
- 20.30A.145 Limitation on authority
- 20.30A.150 Map change
- 20.30A.155 Concomitant agreement

Part 20.30B Conditional Use Permit

- 20.30B.110 Scope
- 20.30B.115 Applicability
- 20.30B.120 Purpose
- 20.30B.140 Decision criteria
- 20.30B.160 Merger with Binding Site Plan
- 20.30B.165 Periodic review
- 20.30B.170 Modification/revocation
- 20.30B.175 Modification or addition to an approved project or decision

Part 20.30C ~~Shoreline Conditional Use Permit~~(Reserved)

- ~~20.30C.110 Scope~~
- ~~20.30C.115 Applicability~~
- ~~20.30C.120 Purpose~~
- ~~20.30C.130 Limitation on filing~~
- ~~20.30C.145 Limitation on City action~~
- ~~20.30C.155 Decision criteria~~
- ~~20.30C.160 Transmittal to Department of Ecology/Attorney General~~
- ~~20.30C.165 Effective date~~
- ~~20.30C.170 Time limitation~~
- ~~20.30C.175 Extension~~
- ~~20.30C.185 Amendment to an approved Shoreline Conditional Use Permit~~
- ~~20.30C.190 Merger with Binding Site Plan~~
- ~~20.30C.195 Periodic review~~
- ~~20.30C.200 Modification/revocation~~

Comment [CoB23]: Shoreline permits will no longer be in 20.30; instead they will be in 20.25E (Shoreline Overlay District) (affects 20.30C, 20.30H, and 20.30R).

Part 20.30D Planned Unit Development

- 20.30D.110 Scope
- 20.30D.115 Applicability
- 20.30D.120 Purpose
- 20.30D.150 Planned Unit Development plan – Decision criteria
- 20.30D.160 Planned Unit Development plan – Conservation feature and recreation space requirement
- 20.30D.165 Planned Unit Development plan – Request for modification of zoning requirements
- 20.30D.167 Planned Unit Development – Additional bonus density for large-parcel projects
- 20.30D.170 Planned Unit Development plan – Limitation on authority to modify zoning
- 20.30D.175 Planned Unit Development plan – Authorized activity
- 20.30D.195 Planned Unit Development plan – Merger with subdivision
- 20.30D.200 Planned Unit Development plan – Effect of approval
- 20.30D.250 Planned Unit Development plan – Phased development
- 20.30D.255 Planned Unit Development plan – Map designation
- 20.30D.280 Merger with Binding Site Plan
- 20.30D.285 Amendment of an approved Planned Unit Development

Part 20.30E Administrative Conditional Use Permit

- 20.30E.110 Scope
- 20.30E.115 Applicability
- 20.30E.120 Purpose
- 20.30E.140 Decision criteria
- 20.30E.160 Merger with Binding Site Plan
- 20.30E.165 Periodic review
- 20.30E.170 Modification/revocation
- 20.30E.175 Modification or addition to an approved project or decision

Part 20.30F Design Review

- 20.30F.110 Scope
- 20.30F.115 Applicability
- 20.30F.116 City Council Design Review
- 20.30F.120 Purpose
- 20.30F.125 Who may apply
- 20.30F.145 Decision criteria
- 20.30F.165 Merger with Binding Site Plan
- 20.30F.170 Planning Commission Design Review
- 20.30F.175 Modification or addition to an approved Design Review project or decision
- 20.30F.180 Recording required

Part 20.30G Variance from the Land Use Code

- 20.30G.110 Scope
- 20.30G.115 Applicability
- 20.30G.120 Purpose
- 20.30G.140 Decision criteria
- 20.30G.150 Limitation on authority

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Part 20.30H ~~Variance to the Shoreline Master Program~~(Reserved)

- ~~20.30H.110 Scope~~
- ~~20.30H.115 Applicability~~
- ~~20.30H.120 Purpose~~
- ~~20.30H.125 Who may apply~~
- ~~20.30H.130 Limitation on filing~~
- ~~20.30H.155 Decision criteria~~
- ~~20.30H.160 Transmittal to Department of Ecology/Attorney General~~
- ~~20.30H.165 Effective date~~

Part 20.30I Amendment and Review of the Comprehensive Plan

- 20.30I.110 Scope and background
- 20.30I.115 Applicable process
- 20.30I.120 Purpose
- 20.30I.130 Initiation of amendment proposals
- 20.30I.140 Threshold review decision criteria
- 20.30I.150 Final review decision criteria

Part 20.30J Amendments to the Text of the Land Use Code

- 20.30J.110 Scope
- 20.30J.115 Applicability
- 20.30J.120 Purpose
- 20.30J.125 Who may initiate
- 20.30J.130 Applicable procedure
- 20.30J.135 Decision criteria

Part 20.30K Interpretation of the Land Use Code

- 20.30K.110 Scope
- 20.30K.115 Applicability
- 20.30K.120 Purpose
- 20.30K.130 Applicable procedure
- 20.30K.135 Submittal requirements
- 20.30K.140 Factors for consideration
- 20.30K.150 Effect of interpretation
- 20.30K.155 Time limitation

Part 20.30M Temporary Use Permit

- 20.30M.110 Scope
- 20.30M.115 Applicability
- 20.30M.120 Purpose
- 20.30M.125 Applicable procedure
- 20.30M.130 Who may apply
- 20.30M.140 Decision criteria
- 20.30M.145 Time limitation
- 20.30M.150 Limitation on activity
- 20.30M.155 Removal of temporary use

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- 20.30M.160 Abatement of temporary use
- 20.30M.170 Screening of off-site construction parking areas

Part 20.30N Home Occupation Permit

- 20.30N.110 Scope
- 20.30N.115 Applicability
- 20.30N.120 Purpose
- 20.30N.125 Who may apply
- 20.30N.140 Decision criteria
- 20.30N.145 Conditions
- 20.30N.150 Time limitation
- 20.30N.155 Quarterly report
- 20.30N.160 Revocation of Home Occupation Permit
- 20.30N.165 Assurance device

Part 20.30P Critical Areas Land Use Permit

- 20.30P.110 Scope
- 20.30P.115 Applicability
- 20.30P.120 Purpose
- 20.30P.125 Who may apply
- 20.30P.130 Applicable procedure
- 20.30P.140 Decision criteria
- 20.30P.150 Time limitation
- 20.30P.155 Extension
- 20.30P.160 Assurance device
- 20.30P.170 Hold harmless
- 20.30P.180 Critical area report – Additional review procedures

Part 20.30R ~~Shoreline Substantial Development Permit~~(Reserved)

- ~~20.30R.110 Scope~~
- ~~20.30R.115 Applicability~~
- ~~20.30R.120 Purpose~~
- ~~20.30R.155 Director's decision~~
- ~~20.30R.160 Transmittal to Department of Ecology/Attorney General~~
- ~~20.30R.170 Commencement of activity~~
- ~~20.30R.175 Time limitation~~
- ~~20.30R.180 Extension~~
- ~~20.30R.190 Revision of an approved Shoreline Substantial Development Permit~~

Part 20.30S Vendor Cart Permit

- 20.30S.110 Scope
- 20.30S.115 Applicability
- 20.30S.120 Purpose
- 20.30S.125 Applicable procedure
- 20.30S.130 Who may apply
- 20.30S.135 Submittal requirements
- 20.30S.140 Decision criteria

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Part 20.30T Reasonable Accommodation

20.30T Reasonable accommodation

Part 20.30U Temporary Encampment Permit

20.30U.110 Scope
20.30U.115 Applicability
20.30U.120 Who may apply
20.30U.121 Submittal requirements
20.30U.122 Applicable procedures
20.30U.125 Use requirements
20.30U.127 Hardship exception
20.30U.130 Decision criteria
20.30U.135 Revocation of Temporary Encampment Permit

Part 20.30V Master Development Plan

20.30V.110 Scope
20.30V.115 Applicability
20.30V.120 Purpose
20.30V.130 Phasing plan
20.30V.140 Binding Site Plan
20.30V.150 Decision criteria
20.30V.160 Modification or addition to an approved Master Development Plan
20.30V.170 Land area computation
20.30V.180 Recording required
20.30V.190 Extended vesting period for Master Development Plans and associated Design Review approval

Section ____ Part 20.30C of the Bellevue Land Use Code is hereby amended to read as follows:

Part 20.30C ~~Shoreline Conditional Use Permit(Reserved)~~

Comment [CoB24]: All shoreline permits moved to 20.25E (Shoreline Overlay District)

~~20.30C.110 Scope.~~

~~This Part 20.30C establishes the procedure and criteria that the City will use in making a decision upon an application for a Shoreline Conditional Use Permit.~~

~~20.30C.115 Applicability.~~

~~This part applies to each application for a Shoreline Conditional Use Permit.~~

~~20.30C.120 Purpose.~~

~~A Shoreline Conditional Use Permit is a mechanism by which the City may both provide more control and allow greater flexibility in administering the Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act. The City may permit certain uses to be established or may require special conditions on development or on the use of land in order to insure that designated uses or activities are compatible with other uses in the same land use district and in the vicinity of the subject property.~~

~~20.30C.130 Limitation on filing.~~

~~An application for a Shoreline Conditional Use Permit will not be accepted for filing unless accompanied by a complete application for a Substantial Development Permit (See LUC 20.25E.040).~~

~~20.30C.145 Limitation on City action.~~

~~The City may not take final action on an application for a Shoreline Conditional Use Permit for at least 30 days following the second publication required by LUC 20.30C.140.~~

~~20.30C.155 Decision criteria.~~

~~The City may approve or approve with modifications an application for a Shoreline Conditional Use Permit if:~~

- ~~A. The proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Bellevue Shoreline Master Program; and~~
- ~~B. The proposed use will not interfere with the normal public use of public shorelines; and~~
- ~~C. The proposed use of the site and design of the project will be compatible with other permitted uses within the area; and~~
- ~~D. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located; and~~
- ~~E. The public interest suffers no substantial detrimental effect; and~~
- ~~F. The proposed use complies with all requirements of WAC 173.14.140; and~~
- ~~G. The proposed use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and~~
- ~~H. The proposed use will be served by adequate public facilities including streets, fire protection, water, stormwater control and sanitary sewer; and~~
- ~~I. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and~~
- ~~J. The proposed use has merit and value for the community as a whole; and~~
- ~~K. The proposed use is in accord with the Comprehensive Plan; and~~

~~L.—The proposed use complies with all other applicable criteria and standards of the Bellevue City Code.~~

~~**20.30C.160 Transmittal to Department of Ecology/Attorney General.**~~

~~Pursuant to WAC 173-14-090 and WAC 173-14-130, the Director of the Development Services Department shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the City Council action on a Shoreline Conditional Use Permit:~~

- ~~A.—The original application; and~~
- ~~B.—An affidavit of public notice; and~~
- ~~C.—A copy of the approved site plan; and~~
- ~~D.—A vicinity map; and~~
- ~~E.—A copy of the approved Shoreline Conditional Use and Substantial Development Permits; and~~
- ~~F.—If applicable, the Council ordinance or resolution approving the application.~~

~~**20.30C.165 Effective date.**~~

~~Notwithstanding the provisions of LUC 20.35.100 et seq., a Shoreline Conditional Use Permit is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130.~~

~~**20.30C.170 Time limitation.**~~

~~A.—A Shoreline Conditional Use Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Conditional Use Permit unless the applicant has received an extension for the Shoreline Conditional Use Permit pursuant to LUC 20.30C.175. "Substantial progress" includes the following, where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or if no construction is involved, commencement of the activity.~~

~~B.—Permit authorization expires finally, despite substantial progress, five years after the effective date of the Shoreline Conditional Use Permit unless the applicant has received an extension pursuant to LUC 20.30C.175. (Ord. 4055, 3914, 9-25-89, § 15)~~

~~**20.30C.175 Extension.**~~

~~A.—The Director of the Development Services Department may extend a Shoreline Conditional Use Permit, not to exceed one year, with prior notice to the Department of Ecology and those who requested copies of the City's decision, only if:~~

- ~~1.—Unforeseen circumstances or conditions necessitate the extension of the permit;~~
- ~~and~~
- ~~2.—Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and~~
 - ~~3.—An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.~~

~~B.—The Director of the Development Services Department may grant no more than two extensions—one only of the two-year "substantial progress" deadline described in LUC 20.30C.170.A and one only of the five-year final deadline described in LUC 20.30C.170.B. (Ord. 4055, 3914, 9-25-89, § 16)~~

~~**20.30C.185 Amendment to an approved Shoreline Conditional Use Permit.**~~

- ~~A.—General.~~

~~The provisions of this section are in addition to those procedures governing amendments to an approved project or decision found in LUC 20.30B.175.~~

~~B.—Additional Criteria for Administrative Amendment:~~

~~An amendment may be reviewed as an administrative amendment if it complies with the provisions of WAC 173-14-064.~~

~~C.—Transmittal to Department of Ecology/Attorney General:~~

~~The Director shall send a copy of the final City action on to the Department of Ecology and the Attorney General's Office in conformance with LUC 20.30C.160 and WAC 173-14-064. (Ord. 4973, 3-3-97, § 829; Ord. 4816, 12-4-95, § 929)~~

~~**20.30C.190 Merger with Binding Site Plan.**~~

~~A.—General:~~

~~The applicant may request that the site plan approved with the Shoreline Conditional Use Permit constitute a Binding Site Plan pursuant to Chapter 58.17 RCW.~~

~~B.—Survey and Recording Required:~~

~~If a site plan is approved as a Binding Site Plan, the applicant shall provide a recorded survey depicting all lot lines and shall record the approved site plan and survey with the King County Department of Records and Elections. No document shall be presented for recording without the signature of each owner of the subject property.~~

~~C.—Effect of Binding Site Plan:~~

~~Upon the approval and recording of a Binding Site Plan the applicant may develop the subject property in conformance with the approved and recorded Binding Site Plan and without regard to lot lines internal to the subject property. Any sale or lease of lots or parcels within the subject property shall be subject to the approved and recorded Binding Site Plan and the requirements of state law. (Ord. 3848, 11-16-87, § 2)~~

~~**20.30C.195 Periodic review.**~~

~~The City may impose periodic review requirements as a condition of permit approval. (Ord. 4066, 10-23-89, § 3)~~

~~**20.30C.200 Modification/revocation:**~~

~~A.—Modification:~~

~~The City may initiate a modification to an approved Shoreline Conditional Use Permit. A modification will be processed through Process I, LUC 20.35.100 et seq.; provided, that modification of a Shoreline Conditional Use Permit within the jurisdiction of a Community Council pursuant to RCW 35.14.040 shall require a Process III decision. Through the modification procedure, the Hearing Body may delete, modify or impose additional conditions upon finding that the use for which such approval was granted has been intensified, changed or modified by the property owner or by person(s) who control the property without approval so as to significantly impact surrounding land uses.~~

~~B.—Revocation:~~

~~The Hearing Body may revoke an approved permit through Process I, LUC 20.35.100 et seq.; provided, that revocation of a Conditional Use Permit within the jurisdiction of a Community Council pursuant to RCW 35.14.040 shall require a Process III decision. An approved permit may be revoked only upon a finding that:~~

- ~~1.—The use for which the approval was granted has been abandoned for a period of at least one year; or~~
- ~~2.—Approval of the permit was obtained by misrepresentation of material fact; or~~
- ~~3.—The permit is being exercised contrary to the terms of approval. (Ord. 4973, 3-3-97, § 830; Ord. 4816, 12-4-95, § 930; Ord. 4066, 10-23-89, § 4)~~

Section ____ Part 20.30H of the Bellevue Land Use Code is hereby amended to read as follows:

Part 20.30H Variance to the Shoreline Master Program(Reserved)

20.30H.110 Scope.

~~This Part 20.30H establishes the procedure and criteria that the City will use in making a decision upon an application for a variance to the provisions of the Shoreline Master Program.~~

20.30H.115 Applicability.

~~This part applies to each application for a variance to the provisions of the Shoreline Master Program.~~

20.30H.120 Purpose.

~~The purpose of a variance to the Shoreline Master Program is to grant relief to specific bulk, dimensional or performance standards set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the policies of the Shoreline Management Act.~~

20.30H.125 Who may apply.

~~The property owner may apply for a variance to the provisions of the Shoreline Master Program.~~

20.30H.130 Limitation on filing.

~~An application for a variance to the Shoreline Master Program will not be accepted for filing unless accompanied by a complete application for a Substantial Development Permit (see LUC 20.25E.040).~~

20.30H.155 Decision criteria.

~~The City may approve or approve with modifications an application for a variance to the Shoreline Master Program if:~~

- ~~A.—Denial of the variance would result in thwarting the policy of RCW 90.58.020; and~~
- ~~B.—The applicant has demonstrated extraordinary circumstances and the public interest will suffer no substantial detrimental effect; and~~
- ~~C.—The strict application of the bulk, dimensional or performance standards of the Master Program preclude or significantly interfere with a reasonable permitted use of the property; and~~
- ~~D.—The hardship described in subsection C of this section is specifically related to the property and is the result of unique conditions such as irregular lot shape or natural features and the application of the Master Program and not, for example, deed restrictions or the applicant's own actions; and~~
- ~~E.—The design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation; and~~
- ~~F.—The variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area and will be the minimum necessary to afford relief; and~~
- ~~G.—If the development will be located either waterward of the ordinary high water mark or in a marsh, bog or swamp designated pursuant to Chapter 173-22 WAC:
 - ~~1.—In place of subsection C of this section, the strict application of the bulk, dimensional or performance standards of the Master Program preclude a reasonable permitted use of the property, and~~~~

~~2.—The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.~~

~~**20.30H.160 Transmittal to Department of Ecology/Attorney General.**~~

~~Pursuant to WAC 173-14-090 and 173-14-130, the Director shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the Director's action on a variance to the Shoreline Master Program:~~

- ~~A.—The original application; and~~
- ~~B.—An affidavit of public notice; and~~
- ~~C.—A copy of the approved site plan; and~~
- ~~D.—A vicinity map; and~~
- ~~E.—A copy of the approved variance to the Shoreline Master Program and Substantial Development Permits. (Ord. 4973, 3-3-97, § 806; Ord. 4816, 12-4-95, § 906)~~

~~**20.30H.165 Effective date.**~~

~~Notwithstanding the provisions of LUC 20.35.200 et seq., a variance to the Shoreline Master Program is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130. (Ord. 4973, 3-3-97, § 807; Ord. 4816, 12-4-95, § 907)~~

Section _____. Part 20.30R of the Bellevue Land Use Code is hereby amended to read as follows:

Part 20.30R Shoreline Substantial Development Permit(Reserved)

~~**20.30R.110 Scope.**~~

~~This Part 20.30R establishes the procedure and criteria that the City will use in making a decision upon an application for a Shoreline Substantial Development Permit. (Ord. 4055, 3914, 9-25-89, § 19)~~

~~**20.30R.115 Applicability.**~~

~~This Part 20.30R applies to each application for a Shoreline Substantial Development Permit. (Ord. 4055, 3914, 9-25-89, § 19)~~

~~**20.30R.120 Purpose.**~~

~~A Shoreline Substantial Development Permit is the primary mechanism by which the City administers the Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act. (Ord. 4055, 3914, 9-25-89, § 19)~~

~~**20.30R.155 Director's decision.**~~

~~A.—General.~~

~~On or after the date specified in LUC 20.30R.140.B.1, and subject to all other restrictions on the time of decisionmaking, the Director of the Development Services Department shall either approve, approve with modifications or deny the application.~~

~~B.—Criteria.~~

~~The Director of the Development Services Department may approve or approve with modifications if:~~

- ~~1.—The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and~~
- ~~2.—The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code; and~~

~~3.—The applicant has demonstrated that the proposal is consistent with the policies and procedures of the Shoreline Management Act and the provisions of Chapter 173-14 WAC and the Master Program.~~

~~In all other cases, the applicable Department Director shall deny the application.~~

~~C.—Limitation on Modification.~~

~~If the Director of the Development Services Department makes a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.30R.140.A, the Director of the Development Services Department shall provide a new notice of an upcoming decision and obtain public comment prior to making a decision.~~

~~D.—Conditions.~~

~~The Director of the Development Services Department may include conditions as part of the approval or approval with modifications to ensure conformance with subsection B of this section.~~

~~E.—Written Decision of the Director.~~

~~1.—Content. The Director of the Development Services Department shall issue a written decision which contains the following:~~

~~a.—A statement indicating that the application is approved, approved with modifications or denied; and~~

~~b.—A statement of any conditions included as part of an approval or approval with modifications; and~~

~~c.—A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.~~

~~2.—Distribution. The applicable Department Director shall mail the written decision of the Director, bearing the date it is mailed, to each person who participated in the decision as provided for in subsection B of this section.~~

~~F.—Effect of Decision.~~

~~Subject to LUC 20.30R.165, the decision of the Director of the Development Services Department on the application is the final decision of the City. (Ord. 4055, 3914, 9-25-89, § 19)~~

20.30R.160 Transmittal to Department of Ecology/Attorney General.

~~Pursuant to WAC 173-14-090, the Director of the Development Services Department shall file the following with the Department of Ecology and the Attorney General's Office within eight days of the Director's action on a Shoreline Substantial Development Permit:~~

~~A.—The original application; and~~

~~B.—An affidavit of public notice; and~~

~~C.—A copy of the approved site plan; and~~

~~D.—A vicinity map; and~~

~~E.—A copy of the approved Shoreline Substantial Development Permit; and~~

~~F.—A copy of the approved Shoreline Conditional Use Permit or Shoreline Variance, if applicable; and~~

~~G.—A copy of the environmental checklist and SEPA determination, if applicable; and~~

~~H.—The final action on the application. (Ord. 4055, 3914, 9-25-89, § 19)~~

20.30R.170 Commencement of activity.

~~Subject to LUC 20.30R.165, the applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications 30 calendar days following the date of the City's filing with the Department of Ecology. If the decision of the Director of the Development Services Department is appealed pursuant to LUC 20.30R.165, no activity may begin and no other City approvals may be granted until resolution of the appeal. (Ord. 4055, 3914, 9-25-89, § 19)~~

20.30R.175 Time limitation.

~~A.—A Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension for the Shoreline Substantial Development Permit pursuant to LUC 20.30R.180. “Substantial progress” includes the following, where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or if no construction is involved, commencement of the activity.~~

~~B.—Permit authorization expires finally, despite substantial progress, five years after the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension pursuant to LUC 20.30R.180. (Ord. 4055, 3914, 9-25-89, § 19)~~

20.30R.180 Extension.

~~A.—The Director of the Development Services Department may extend a Shoreline Substantial Development Permit, not to exceed one year, with prior notice to the Department of Ecology and those who requested copies of the Director’s decision only if:~~

~~1.—Unforeseen circumstances or conditions necessitate the extension of the permit; and~~

~~2.—Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and~~

~~3.—An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.~~

~~B.—The Director of the Development Services Department may grant no more than two extensions—one only of the two-year “substantial progress” deadline described in LUC 20.30R.175.A and one only of the five-year final deadline described in LUC 20.30R.175.B. (Ord. 4055, 3914, 9-25-89, § 19)~~

20.30R.190 Revision of an approved Shoreline Substantial Development Permit.

~~A.—General:~~

~~Except as otherwise provided in subsection B of this section, a revision of a previously approved project or decision is treated as a new application for a Shoreline Substantial Development Permit.~~

~~B.—Minor Revisions:~~

~~1.—Authority. A revision may be reviewed as a Minor Revision if determined to be within the scope and intent of the original permit by meeting all of the following criteria:~~

~~a.—No additional over-water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less;~~

~~b.—Ground area coverage and height of each structure may be increased a maximum of 10 percent from the provisions of the original permit;~~

~~c.—Additional separate structures may not exceed a total of 250 square feet;~~

~~d.—The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under the original permit;~~

~~e.—Additional landscaping is consistent with conditions (if any) attached to the original permit and with the applicable master program;~~

~~f.—The use authorized pursuant to the original permit is not changed; and~~

~~g.—No substantial adverse environmental impact will be caused by the project revision.~~

If the sum of the revision and any previously approved revisions violate the provisions of this section, a new permit shall be required.

~~2.—Decision Criteria. The Director of the Development Services Department may approve or approve with modifications a Minor Revision if:~~

~~a.—The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and~~

~~b.—The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code.~~

~~In all other cases, the Director of the Development Services Department shall deny the application.~~

~~3.—Conditions. The Director of the Development Services Department may include conditions as part of the proposed approval or approval with modifications to ensure conformance with paragraph B.2 of this section.~~

~~4.—Content. The Director of the Development Services Department shall issue a written decision on the revision which contains the following:~~

~~a.—A statement indicating that the application is approved, approved with modifications or denied; and~~

~~b.—A statement of any conditions included as part of an approval or approval with modifications; and~~

~~c.—A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.~~

~~5.—Transmittal to Department of Ecology/Attorney General. The Director of the Development Services Department shall send within eight days a copy of the final City action on the revision on to the Department of Ecology and the Attorney General's Office in conformance with LUC 20.30R.160 and WAC 173-14-064.~~

~~6.—If the revision to the original permit involves a conditional use or variance which was conditioned by the Department of Ecology, the revision shall be submitted to the Department of Ecology for the department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-14-064(5). Persons having requested notice of the Director's decision shall be notified. The Department of Ecology shall transmit to the City its decision within 15 days of receipt of the Director's submittal.~~

~~7.—The revised permit is effective immediately upon the Director's decision or, when appropriate under paragraph B.6 of this section, upon the Department of Ecology's action.~~

~~8.—Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 30 days from the date of receipt of the Director's decision by the Department of Ecology or, when appropriate under paragraph B.6 of this section, the date the Department of Ecology's final decision is transmitted to the City and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of paragraph B.1 of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not in compliance with paragraph B.1 of this section, the decision shall have no bearing on the original permit. (Ord. 4055, 3914, 9-25-89, § 19)~~

Section _____. Section 20.35.015 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.015 Framework for decisions.

A. Land use decisions, other than decisions on applications for Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Variances to the Shoreline Master

Comment [CoB25]: Shoreline permits, procedures, and decisions are now in 20.25E.

[Program](#), are classified into ~~four~~five processes based on who makes the decision, the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. [Refer to LUC 20.25E.100-200 for procedures, permits, and decisions related to Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Variances to the Shoreline Master Program.](#)

B. Process I decisions are quasi-judicial decisions made by the Hearing Examiner on project applications. The following types of applications require a Process I decision:

1. Conditional Use Permits (CUPs) ~~and Shoreline Conditional Use Permits~~;
2. Preliminary Subdivision Approval (Plat); and
3. Planned Unit Development (PUD) Approval; provided, that applications for CUPs, ~~shoreline CUPs~~, preliminary plats, and PUDs, within the jurisdiction of a Community Council pursuant to RCW 35.14.040, shall require a Process III decision.

Comment [CoB26]: Shoreline CUPs are now addressed in 20.25E.

C. Process II decisions are administrative land use decisions made by the Director. Threshold determinations under the State Environmental Policy Act (SEPA) made by the Environmental Coordinator and Sign Code variances are also Process II decisions. (See the Environmental Procedures Code, BCC 22.02.034, and Sign Code, BCC 22B.10.180.) The following types of applications require a Process II decision:

1. Administrative amendments;
2. Administrative Conditional Use;
3. Design Review;
4. Home Occupation Permit;
5. Interpretation of the Land Use Code;
6. Preliminary Short Plat;

~~7. Shoreline Substantial Development Permit~~;

~~87. Variance and Shoreline Variance~~;

~~98. Critical Area Land Use Permits~~;

~~409. Master Development Plans~~;

~~4410. Design and Mitigation Permits required pursuant to the Light Rail Overlay Part 20.25M LUC; and~~

~~4211. Review under State Environment Policy Act (SEPA) when not consolidated with another permit.~~

Comment [CoB27]: Shoreline permits are now addressed in 20.25E.

D. Process III decisions are quasi-judicial decisions made by the City Council. The following types of applications require a Process III decision:

1. Site-specific or project-specific rezone;
2. Conditional Use, ~~Shoreline Conditional Use~~, Preliminary Plat, and Planned Unit Development projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040; and
3. A rezone of any property to the OLB-OS Land Use District designation.

Comment [CoB28]: Shoreline permits are now addressed in 20.25E.

E. (Process IV decisions – no change)

F. (Process V decisions – no change)

G. (Other types of land use applications and decisions made by the Director – no change)

Comment [CoB29]: Amendment is proposed to this paragraph G as part of the LUC cleanup ordinance; need to make sure both ords are consistent.

Section _____. Section 20.35.020 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.020 Pre-application conferences.

A pre-application conference is required prior to submitting an application for Conditional Use ~~or Shoreline Conditional Use~~ Permits, preliminary subdivision approval, planned unit developments, Master Development Plans, Design and Mitigation Permits required pursuant to the Light Rail Overlay Part 20.25M LUC, and Design Review projects, unless waived by the Director.

Comment [CoB30]: All shoreline permit requirements now in 20.25E.

Section _____. Section 20.35.070 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.070 Appeal of City land use decisions to Superior Court.

A. General. A final City decision on a land use permit application (Processes I through III and V), ~~except for shoreline permits~~, may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Notwithstanding the provisions of this paragraph, the time for filing an appeal of a final Process II land use action that has been merged with a Process I or III application will be tolled until the Process I or III decisions are final. Requirements for fully exhausting City administrative appeal opportunities, if any are available, must be fulfilled. ~~An appeal of a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.~~

Comment [CoB31]: Shoreline permit appeals are now addressed in 20.25E.

B. A final City action on a legislative nonproject land use proposal (Process IV) may be appealed by petition to the Growth Management Hearings Board as set forth in LUC 20.35.440.C and RCW 36.70A.290.

Comment [CoB32]: Shoreline permit appeals are now addressed in 20.25E.

Section _____. Section 20.35.150.D of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.150(D) Appeal of Hearing Examiner decision.

D. Effect of Decision.

The decision of the City Council on the application is the final decision of the City and may be appealed to Superior Court as provided in LUC 20.35.070, ~~except that an appeal of a shoreline conditional use decision shall be filed with the State Shoreline Hearings Board as set forth in RCW 90.58.180.~~

Comment [CoB33]: Shoreline permit appeals now addressed in 20.25E.

Section _____. Section 20.35.200.C of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.200(C) Process II: Administrative decisions.

C. Process II decisions of the Director and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period, except that for projects where no person or entity submitted comments prior to the date the final decision was issued pursuant to LUC 20.35.250.A.1, the Process II decision is a final decision effective on the date of issuance. If an administrative appeal is filed by a person or entity that submitted comments prior to the date the final decision was issued as set forth in LUC 20.35.250.A.1, the decision is not final until the appeal is heard and decided by the City Hearing Examiner, ~~the Shoreline Hearings Board pursuant to LUC 20.35.250.B and RCW 90.58.180,~~ or the Growth Management Hearings Board pursuant to LUC 20.35.250.C and RCW 36.70A.290.

Comment [CoB34]: Shoreline permit appeals are now addressed in 20.25E.

Section _____. Section 20.35.210, Table 20.35.210.A, of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.210 Notice of application.

A. Notice of application for Process II land use decisions shall be provided within 14 days of issuance of a notice of completeness as follows:

Table 20.35.210.A

Comment [CoB35]: Amendment to this table is proposed under the LUC cleanup ordinance. Need to make sure both ords are consistent)

Application Type	Publish	Mail	Sign
Administrative Amendment	X	X	X
Administrative Conditional Use	X	X	X
Design Review	X	X	X
Home Occupation Permit	X	X	
Interpretation of Land Use Code	X		
Preliminary Short Plat	X	X	X
Shoreline Substantial Development Permit	X	X	

Comment [CoB36]: Shoreline permits are now addressed in 20.25E.

Variance, Shoreline Variance	X	X	
Critical Areas Land Use Permit	X	X	
SEPA Review (when not consolidated with another permit)	X		

Section _____. Section 20.35.250 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.250 Appeal of Process II decisions.

A. Process II decisions, except for ~~shoreline permits and~~ SEPA Threshold Determinations on Process IV actions, may be appealed as follows:

Comment [CoB37]: Appeals of shoreline permits are now addressed in 20.25E.

1. Who May Appeal. The project applicant or any person who submitted written comments prior to the date the decision was issued may appeal the decision.
2. Form of Appeal. A person appealing a Process II decision must file a written statement setting forth:
 - a. Facts demonstrating that the person is adversely affected by the decision;
 - b. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
 - c. The specific relief requested; and
 - d. Any other information reasonably necessary to make a decision on the appeal.

The written statement must be filed together with an appeal notification form available from the Office of the City Clerk. The appellant must pay such appeal fee, if any, as established by ordinance or resolution at the time the appeal is filed.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on the 14th day following the date of publication of the decision of the Director; except that if the Director's decision is consolidated with a threshold Determination of Nonsignificance under the State Environmental Policy Act for which a comment period pursuant to WAC 197-11-340 must be provided, the appeal period for the consolidated decision shall be 21 days.

~~**B. Shoreline Permit Appeals.**~~

Comment [CoB38]: Shoreline permit appeals are now addressed in 20.25E.

~~An appeal of a Shoreline Substantial Development Permit or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.~~

CB. SEPA Threshold Determinations on Process IV and Process V Actions.

1. Process IV. An appeal of a SEPA threshold determination on a Process IV action shall be filed together with an appeal of the underlying Process IV action. The appeal shall be

by petition to the Growth Management Hearings Board and shall be filed within the 60-day time period set forth in RCW 36.70A.290.

2. Process V. An appeal of a SEPA threshold determination on a Process V action shall be filed together with an appeal of the underlying Process V action. The appeal shall be as set forth in LUC 20.35.070 and 20.35.540.

| **DC. Notice of Appeal Hearing.**

If a Process II decision is appealed, a hearing before the City Hearing Examiner shall be set and notice of the hearing shall be mailed to the appellant, the applicant, and all parties of record by the applicable Department Director. Notice shall be mailed no less than 14 days prior to the appeal hearing; except that if the Process II decision has been consolidated with a recommendation on a Process I or Process III application, any appeal of the Process II decision shall be consolidated with the Process I or Process III public hearing. No separate notice of a Process II appeal need be provided if the public hearing has already been scheduled for the Process I or Process III component of an application.

| **ED. Hearing Examiner Hearing.**

The Hearing Examiner shall conduct an open record hearing on a Process II appeal. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner's Rules of Procedure.

| **FE. Hearing Examiner Decision on Appeal.**

Within 10 working days after the close of the record for the Process II appeal, the Hearing Examiner shall issue a decision to grant, grant with modifications, or deny the appeal. The Examiner may grant the appeal or grant the appeal with modification if:

1. The appellant has carried the burden of proof; and
2. The Examiner finds that the Process II decision is not supported by a preponderance of the evidence.

The Hearing Examiner shall accord substantial weight to the decision of the applicable Department Director and the Environmental Coordinator.

| **GF. Appeal of Hearing Examiner Decision.**

A final decision by the Hearing Examiner on a Process II application may be appealed to Superior Court as set forth in LUC 20.35.070.

| **HG. Time Period to Complete Appeal Process.**

In all cases except where the parties to an appeal have agreed to an extended time period, the administrative appeal process shall be completed within 90 days from the date the

original administrative appeal period closed. Administrative appeals shall be deemed complete on the date of issuance of the Hearing Examiner's decision on the appeal.

Section _____. Section 20.40.500.A.1 of the Bellevue Land Use Code is hereby amended to read as follows:

20.40.500(A) Vesting and expiration of vested status of land use permits and approvals.

A. Vesting for Permits and Approvals.

1. Permits and Approvals Other than Subdivisions and Short Subdivisions and Shoreline Permits. Applications for all land use permits and approvals except subdivisions and short subdivisions and shoreline permits (Shoreline Conditional Use, Shoreline Substantial Development Permit, and Variance to the Shoreline Master Program) shall be considered under the Land Use Code and other land use control ordinances in effect on the date that a fully complete Building Permit application, meeting the requirements of BCC 23.10.03223.05.090E and F, is filed. Vesting provisions for Shoreline Permits are provided in LUC 20.25E.250.C. If a complete Building Permit application is not filed, the land use permit or approval shall become vested to the provisions of the Land Use Code upon the date of the City's final decision on the land use permit or approval.

Comment [CoB39]: Amendments to this paragraph A.1 are proposed under the LUC cleanup ordinance. Need to make sure both ords are consistent)

Comment [CoB40]: Shoreline permit vesting is now addressed in 20.25E.

Comment [CoB41]: Shoreline permit vesting is now addressed in 20.25E.

Section _____. Section 20.40.500.B.1 of the Bellevue Land Use Code is hereby amended to read as follows:

20.40.500(B) Vesting and expiration of vested status of land use permits and approvals.

B. Expiration of Vested Status of Land Use Permit or Approval.

1. The vested status of a land use permit or approval shall expire as provided in subsection B.2 of this section; provided, that:
 - a. Variances shall run with the land in perpetuity if recorded with King County Department of Records and Elections within 60 days following the City's final action; and
 - b. Critical Areas Land Use Permits shall expire as set forth in LUC 20.30P.150; and
 - c. Lots in a subdivision or short subdivision shall be vested against changes in the Land Use Code, except for changes that address a serious threat to the public health or safety as found by the City Council when such change is adopted, for a period of five years following the date of recording of the final plat or final short plat; and
 - d. The time period established pursuant to subsection B.2 of this section shall not include the time during which an activity was not actively pursued due to the pendency of litigation which may materially affect rights of the applicant for the permit or approval related to that permit or approval.

e. Expiration of Shoreline Permits shall occur pursuant to LUC 20.25E.250.C.

Comment [CoB42]: Shoreline permit expiration is now addressed in 20.25E.

Section _____. Section 20.50.010 of the Bellevue Land Use Code is hereby amended to delete the definition of “Agricultural Lands, Prime”.

Comment [CoB43]: Defer to new definition of “Agricultural Land” in 20.25E. Note that there are no agricultural lands in the GMA meaning of the term within Bellevue’s urban growth boundary.

20.50.010 A definitions.

Agricultural Lands, Prime. Soils for crop production with little or no limitations, or hazards, for crop production. [This definition does not apply with the Shoreline Overlay District \(refer to LUC 20.25E.280 – “Agricultural Land”\).](#)

Section _____. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to delete the definition of “Boathouse”.

Comment [CoB44]: 20.25E contains definition of Boathouse. This use does not occur outside of the Shoreline Overlay District, so general definition in 20.50 is not needed.

Section _____. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of “Building Height” to read as follows:

20.50.012 B definitions.

Building Height. The vertical distance measured from the average elevation of the finished grade around the building or building segment to the highest point of a flat roof, or to the mean height between the eaves and ridge of a pitched roof. Specifically excluded from this definition and from the regulation of maximum building height are structural elements not intended for habitation and not exceeding 15 feet above the maximum building height including penthouses for mechanical and elevator equipment, chimneys, wireless communication facility antenna arrays, smoke and ventilation stacks, flag poles, mechanical and elevator equipment, and parapet walls designed solely to screen mechanical and elevator equipment. This definition does not apply to projects located within a Transition Area Design District (refer to LUC 20.25B.040), the Shoreline Overlay District (refer to LUC ~~20.25E.017~~20.25E.280 – “Height”), Single-Family Land Use Districts (refer to the definition of Building Height – Single-Family Land Use Districts contained in this section; see also LUC 20.10.440, Note (16)), and to the F1 Land Use District (refer to LUC 20.25F1.040, Footnote (6)).

Comment [CoB45]: Defer to new definition in 20.25E.

Section _____. Section 20.50.014 of the Bellevue Land Use Code is hereby amended to revise the definition of “Community Club” to read as follows:

20.50.014 C definitions.

Community Club. A formally constituted nonprofit association or corporation made up of the residents of a given area. [This definition does not apply with the Shoreline Overlay District \(refer to LUC 20.25E.280 – “Community Club”\).](#)

Comment [CoB46]: Defer to new definition in 20.25E.

Section _____. Section 20.50.016 of the Bellevue Land Use Code is hereby amended to revise the definition of “Development” to read as follows:

20.50.016 D definitions.

Development. All structures and other modifications of the natural landscape above and below ground or water, on a particular site. For the purposes of Part 20.25E LUC, regulation for the Shoreline Overlay District, a [different definition is used. See LUC 20.25E.017.A.](#)

Comment [CoB47]: LUC 20.25E.017.A will be an outdated citation under the new 20.25E. Intent is to revise the definition of “development” here in LUC 20.50.016 in a manner that incorporates shoreline development so that only one definition applies. Amendment is not yet drafted.

Section _____. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of “Fair Market Value” to read as follows:

20.50.020 F definitions.

Fair Market Value. The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project. [This definition does not apply with the Shoreline Overlay District \(refer to LUC 20.25E.280 – “Fair Market Value”\).](#)

Comment [CoB48]: Defer to new definition in 20.25E.

Section _____. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of “Fill” to read as follows:

20.50.020 F definitions.

Fill. A solid material which increases ground surface elevation ~~above or below the ordinary high water mark.~~ [This definition does not apply with the Shoreline Overlay District \(refer to LUC 20.25E.280 – “Fill”\).](#)

Comment [CoB49]: Defer to new definition in 20.25E.

Section _____. Section 20.50.040 of the Bellevue Land Use Code is hereby amended to delete the definition of “Ordinary High Water Mark”.

Comment [CoB50]: 20.25E contains definition of OHWM. This term is not used outside of the Shoreline Overlay District, so general definition in 20.50 is not needed.

Section _____. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to delete the definition of “Shoreland, Shoreline”.

Comment [CoB51]: 20.25E contains definition of Shorelines. This term is not used outside of the Shoreline Overlay District, so general definition in 20.50 is not needed.

Section _____. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to revise the definition of “Structure” to read as follows:

20.50.046 S definitions.

Structure. A combination of materials constructed and erected permanently on or under the ground or attached to something having a permanent location on or under the ground. Not included are residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height and similar improvements of a minor character. For the purposes of Part 20.25E LUC, regulations for the Shoreline Overlay District, a different definition applies. See LUC ~~20.25E.017-C~~ [20.25E.280 – “Structure”.](#)

Comment [CoB52]: Defer to new definition in 20.25E.

Section _____. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section _____. This ordinance shall take effect and be in force **five/thirty (5/30)** days after legal publication.

PASSED by the City Council this _____ day of _____, 201____, and signed in authentication of its passage this _____ day of _____, 201____.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

DRAFT