



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 5, 2011

The Honorable Don Gerend, Mayor
City of Sammamish
801 228th Avenue SE
Sammamish, WA 98075-9509

**Re: City of Sammamish Comprehensive Shoreline Master Program Update
Ordinance Number 2009-265**

Dear Mayor Gerend:

I would like to take this opportunity to commend the city of Sammamish (City) for its efforts in developing the proposed comprehensive Shoreline Master Program Update (SMP). It is obvious that a significant effort was invested in this update by your staff and engaged community. We appreciate this effort and have worked very hard to ensure that the approved SMP is consistent with both the needs of the City and with the policy and procedural requirements of the Shoreline Management Act (SMA) and the SMP Guidelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) approves this comprehensive SMP update, subject to required changes detailed in Attachment B. Recommended changes are also proposed in Attachment C. The findings and conclusions that support Ecology's decision are also enclosed (Attachment A).

Because required changes are involved in this proposed SMP, the amendment will not become effective until Ecology receives written notice that the City agrees to the changes¹. Receipt of the City's written agreement to the required changes will constitute final action by Ecology on the Sammamish SMP.

If you do not agree to the changes listed in Attachment B, then pursuant to WAC 173-26-120(7)(b)(ii), you may propose to Ecology alternative amendments consistent with the scope of the original submittal, SMA policy, and the applicable guidelines. At that point, Ecology will need to review and approve the alternative amendment(s) before they become effective.

¹ WAC 173-26-120(7)(b)(i)



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To summarize, please advise us whether the required and recommended changes are acceptable. If the City agrees with the changes, it must notify Ecology in writing by sending the notice to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Thank you again for your efforts. If you have any questions, please contact our Regional Planner, Joe Burcar, at Joe.Burcar@ecy.wa.gov/(425) 649-7145.

Sincerely,



Ted Sturdevant
Director

Enclosures

By certified mail [7003 1010 0005 0569 1529]

cc: Joe Burcar, Department of Ecology
Kamuron Gurol, City of Sammamish
Peter Skowlund, Department of Ecology
Geoff Tallent, Department of Ecology
Ben Yazici, City of Sammamish

ATTACHMENT A: FINDINGS AND CONCLUSIONS -
COMPREHENSIVE UPDATE TO THE CITY OF SAMMAMISH SHORELINE MASTER PROGRAM

SMP Submittal June 8, 2010¹, Ordinance No. 2009-265

Prepared by Joe Burcar, on April 14, 2011

BRIEF DESCRIPTION OF PROPOSED AMENDMENTS:

The City of Sammamish (City) has submitted to Ecology for review a comprehensive amendment to their Shoreline Master Program (SMP) in accordance with the Washington State SMP – Guidelines at WAC 173-26 (Part Three). A comprehensive update of the City SMP is required by the Shoreline Management Act (SMA) at RCW 90.58.080. Once the SMP is approved by the Department of Ecology (Ecology), contents of the ‘stand-alone’ SMP will reside within Chapter 25 of the City of Sammamish Municipal Code (SMC); these elements including changes required (**Attachment B**) and suggested (**Attachment C**) by this approval constitute the City’s complete Shoreline Master Program.

SMP PROVISIONS TO BE CHANGED BY THE AMENDMENT AS PROPOSED:

This comprehensive SMP amendment is intended to replace the City’s existing SMP in its entirety. The final SMP includes the following references to be formally incorporated as part of this SMP:

- City of Sammamish Surface Water Management standards within Chapter 15.05 SMC.
- City of Sammamish Historic Resources –Review Process within Chapter 21.10.120 SMC.
- City of Sammamish Critical Areas regulations within Chapter SMC 21A.50 exclusive of SMC 21A.50.050 (Complete exemptions), SMC 21A.50.060 (Partial exemptions), SMC 21A.50.070 (Exemptions), and SMC 21A.50.400 (Sunset provision).

FINDINGS OF FACT

The record submitted by the City, including Ordinances 2009-265, supporting documents and the City’s submittal letter provide information related to the need for the proposed amendments. Since incorporation of the City in August of 1999, the City of Sammamish has implemented the 1978 King County Shoreline Master Program to shoreline jurisdictional areas of; Lake Sammamish, Beaver and Pine Lakes. According to the City, the 1978 King County SMP was codified as Title 25 of the Sammamish Municipal Code in 1999, but has not otherwise been amended by the City (ESA Adolfson, 2007). Thus, the City has managed shoreline development over the last 12-years in accordance with existing delineation of King County shoreline environment designations and applicable shoreline modification and use regulations.

According to the City’s *Inventory and Characterization Report* (ESA Adolfson, 2007), Pine Lake, Beaver Lake and Lake Sammamish are designated “*Shorelines of the State*” pursuant to RCW 90.58.030. Lake Sammamish is further characterized as a “*Shoreline of Statewide Significance*” as the freshwater lake is larger than 1,000 acres in size (ESA Adolfson, 2007).

NEED FOR THE AMENDMENT:

¹ Even though the City provided their final response to comments to Ecology on February 4, 2011, at the City’s request, Ecology twice met with City staff to coordinate on specific required change language and discussion of remaining issues. Ecology’s final meeting with City staff was held on March 22, 2011.

The proposed amendments are needed to comply with the statutory deadline for a comprehensive update to a local Shoreline Master Program pursuant to RCW 90.58.100. The 2003 Guidelines at WAC 173-26 require a baseline inventory be established as a reference condition for the updated SMP. The SMP update is also intended to reflect current shoreline conditions as it is recognized that conditions can change over time, as called for in RCW 90.58. “*Current shoreline conditions*” refers to both physical/biological conditions as well as how shoreline lands are currently being used.

Section 25-01-010 of the City’s SMP provides the following “*Purpose and Intent*” related to the update of their SMP:

(1) To promote the health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development, use, and restoration of Sammamish’s shorelines; and

(2) To manage shorelines in a positive, effective, balanced and equitable manner consistent with requirements established by the Shoreline Management Act (the Act) contained in the Washington Administrative Code (WAC) 173-26.

(3) To maintain the ecological functions of Sammamish’s shorelines

CURRENT CONDITIONS DOCUMENTED:

Documentation of current shoreline conditions is vital to achieving the no net loss standard of the state SMP Guidelines (WAC 173-26-186). Pursuant to this requirement, the City produced a final *Inventory and Characterization Report* dated June 2007, which served as a basis of existing shoreline conditions and restoration-protection opportunities that are intended to inform development of the City’s SMP (environment designations, policies and regulations).

The City’s *Inventory and Characterization Report* (ESA Adolfson, 2007) provides both an ecosystem-wide (watershed) and reach-level analysis of existing shoreline (ecological and built) environment conditions as well as a recommendation for future protection and/or restoration opportunities based on the assessment.

Current shoreline ecological functions are generally characterized as follows for the three main (freshwater) shoreline jurisdictional areas located within the City:

(1) Lake Sammamish: consists of approximately 7-linear miles of single-family residential parcels, for which the City estimates 106-vacant² parcels out of 616 total lots along the lake. According to the City, shoreline areas north of Weber Point are generally considered less developed characterized by more natural shoreline conditions. Whereas the remaining Lake Sammamish shoreline is developed with existing single-family residences on lots typically less than 3,000-square feet in size. The City’s Inventory/Characterization report estimates 53% of the Lake Sammamish shoreline is modified with the presence of an existing dock. The Lake Sammamish shoreline has been generally characterized as impaired in Water Quality, Quantity and Habitat functions, attributed mainly to altered water

² Estimate based on a preliminary analysis prepared by the City as referenced on page 34 within section 4.1.4 of the Inventory Characterization Report.

flow and sediment processes throughout the basin and shoreline modifications consisting of residential docks, bulkheads and loss of lakeshore vegetation.

(2) **Pine Lake:** consist of approximately 2.2-linear miles of shoreline residential (97%) and Public/Institutional uses (3.4%). According to the City's Inventory/Characterization, about 50% of the residential parcels are considered modified with shoreline stabilization or dock construction (85-bulkheads, 31-docks on 207 parcels). Pine Lake has also been characterized as impaired for all three shoreline ecologic functions, for which the City's Inventory/Characterization report has emphasized preservation of woody vegetation as a key management recommendation to control water quality concerns.

(3) **Beaver Lake:** consists of approximately 2.6-linear shoreline miles of predominately (85%) single-family residential and the remainder of the shoreline consisting of Public/Institutional uses. According to the City's Inventory/Characterization, less than 50% of the residential parcels are considered modified with shoreline stabilization or dock construction (44-bulkheads, 26-docks on 137 parcels). The characterization report specifically notes the need for "*stringent measures*" to protect Beaver Lake Water Quality through preservation of "*wetland ELS 21*" (ESA Adolfson, 2007; 57). Protection of natural shoreline habitat including native vegetation and limitation on future shoreline armoring where recommended within the City's characterization report.

Ecology finds that the City's 2007 Inventory and Characterization report provided a sufficient assessment of existing shoreline conditions to adequately inform the SMP update process as well as provide a basis for future protection and restoration opportunities within the City's shoreline jurisdiction. The 2007 report appears to be consistent with State Guideline requirements of (WAC) 173-26-201 (3) (c) and (d).

Shoreline Environment Designations: Assignments of Environment Designation are a fundamental aspect of the SMP update. Every stretch of shoreline has characteristics that can be recognized in common with similar areas informing to what degree natural characteristics have been altered over time. An SMP update must factor in how lands have been used historically including a general distinction between presently developed areas compared to relatively undisturbed shoreline areas. SMP-Guideline criteria provided in WAC 173-26-211 typically serve as the primary determinants of how shoreline environment designation assignments are made, along with reference to zoning and other regulatory overlays.

The City has identified the Shoreline Residential and Urban Conservancy environment designations as appropriate to manage future shoreline development within all three lakes covered by the updated SMP. According to the City's Inventory/Characterization report, a majority of the shoreline management area consist of single-family residential use, for which the Shoreline Residential environment designation has been applied. Residential shoreline areas with the presence of significant or important critical areas, such as an intact wetland complex or areas generally free of shoreline modifications, have been designated as Urban Conservancy.

Of particular note, is the City's use of the Urban Conservancy designation within a relatively undisturbed segment of shoreline along the north end of Lake Sammamish. This shoreline reach was described as follows within the City's Inventory/Characterization report; "*...relative intact shoreline... few modifications in the form of docks or bulkheads and contain significant numbers of mature conifers and cottonwoods. Bald eagles routinely use these areas for nesting and perching*" (ESA Adolfson, 2007; 54) illustrating appropriate recognition of existing natural features and wildlife within this shoreline area.

Ecology finds that a substantive basis for designation of Shoreline Environments was appropriately conducted and assignment of designations within the SMP appear to be appropriately assigned.

Shoreline Uses: As part of the City's *Inventory and Characterization Report* (ESA Adolfson, 2007), the City provided a Use Analysis (Section 6.0) in response to SMP-Guideline requirements³ to project shoreline development trends to identify any potential use conflicts.

The City's Use Analysis, characterizes existing shoreline uses as primarily single-family residential with a small portion of public park use along shoreline areas. Future changes to these uses are not anticipated, as the City mainly foresees residential redevelopment, through remodeling or expansion of existing shoreline residential use in the future. Further, the City notes upland zoning (Comprehensive Plan) and navigation limitation precluding water-dependent port, industrial or commercial uses from all three lakes in the future. Therefore, the City has not identified any significant use conflicts anticipated for future shoreline development.

Ecology finds that the City has adequately considered SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201 (3) (d) (ii).

Shoreline Modifications: Pursuant to WAC 173-26-231, "... Shoreline modifications are generally related to construction of physical elements such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal." Further, WAC 173-26-231 (2) (b) states as a general principle that Master programs should; "Reduce the adverse effects of shoreline modifications, and, as much as possible, limit shoreline modifications in number and extent." These shoreline modification principles are reinforced through associated Mitigation Sequencing (WAC 173-26-201.2.e) and No Net Loss (WAC 173-26-186) requirements of the SMP-Guidelines.

According to the City's *Shoreline Inventory/Characterization Report*, Shoreline Modifications consist mainly of "residential docks, bulkheads and loss of lakeshore vegetation" (ESA Adolfson, 2007). These features were identified in the report as the primary indicators of the relative degree of shoreline impairment throughout the City. As a general management conclusion, the report recommends minimization of future Shoreline Modifications to satisfy the No Net Loss policy goal of the SMP Guidelines.

The City's Cumulative Impact Assessment provides general conclusions for the SMP supporting no net loss of shoreline ecological function subject to adherence to Mitigation Sequencing, specifically defined to first avoid, then minimize and then compensate for impacts or provide replacement resources (ESA Adolfson, 2010).

The Shoreline Setback standards (25.06.020.7), Partial Exemptions (25.06.020.8) and the Lake Sammamish Shoreline Setback Reduction Standards (25.06.020.10) as adopted by the City (Ordinance 2009-265) do not require consideration of impact avoidance, minimization or require compensatory mitigation.

³ WAC 173-26-201 (3) (d) (ii)

Ecology finds that the City's Cumulative Impact Assessment does not adequately analyze in sufficient detail the SMP's shoreline setback reduction standards (25.06.020.10) or exemptions (25.06.020.8). Further, the City's shoreline setback standards lack impact avoidance or minimization mechanisms and do not require⁴ offsetting mitigation. These standards are therefore inconsistent with mitigation sequencing principles as defined within the City's Cumulative Impact Assessment (ESA Adolfson, 2010; 20) and WAC 173-26-201 (2) (e). Therefore, Ecology has identified required changes (Attachment B) to the SMP necessary to ensure compliance with SMP-Guideline requirements related to Shoreline Modifications (WAC 173-26-231), No Net Loss (WAC 173-26-186-8), and Environmental Impact Mitigation (WAC 173-26-201-2-e).

Cumulative Impact Evaluation: Listed as a Governing Principle of the SMP Guidelines, WAC 173-26-186 (8) (b) states, "*Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.*"

Upon completion of the final draft SMP in August 2009, the City produced a Cumulative Impact Assessment intended to assess potential impacts resulting from anticipated future development allowed by the updated SMP. A fundamental recommendation of the City's Cumulative Impact Assessment states "*Mitigation measures must be implemented according to standard mitigation sequencing of first avoiding, then minimizing, then compensating for impacts or providing replacement resources*" (ESA Adolfson, 2010; 20).

The City's shoreline Inventory/Characterization report has concluded that lakeshore vegetation and distance between noise and lighting associated with residential development should be preserved. Further, the City's Cumulative Impact Assessment concludes that development should not be allowed closer to the lakeshore, "*...unless offset by restoration, vegetation enhancement or removal of a hard armored bulkhead*" (ESA Adolfson, 2010; 24).

The City's Inventory/Characterization report provides information estimating a total of 384 overwater structures⁵ ranging in size from 30-50 feet, adjacent to 960 total shoreline parcels within the City. Neither the Inventory/Characterization, nor the Cumulative Impact Assessment provides an estimate of total overwater coverage. However, the Inventory/Characterization report summarizes the reduction of overwater coverage as an overall restoration/protection opportunity within the City. The proposed SMP allows for residential docks to be 85-feet in length, or the length necessary to reach a depth of 8-feet. Residential pier/docks are limited to 600-square feet of overwater coverage for docks serving a single parcel, 800-square feet (700-square feet on Pine or Beaver Lakes) for joint-use docks (shared by up to 9 residences), and 1000-square feet (700-square feet on Pine or Beaver Lakes) for docks serving more than 9 residences. The City's Cumulative Impact Assessment (ESA Adolfson, 2010) does not provide a specific analysis of potential cumulative impacts resulting from new docks allowed through the updated SMP, nor is any justification for the overwater coverage limits provided. The report does mention that the Washington State Department of Fish and Wildlife (WDFW) and Army Corps of Engineers (ACOE)

⁴ Vegetation Enhancement Area (VEA) standards are labeled as "*may be required*" or "*encouraged, not required*" within Figure 1 and as part of the overall shoreline setback standards (section 26.06.020) and specifically in section 26.06.020 (10).

⁵ Reference to the total number of overwater structures (pier or dock) was derived from the following sections of the City's Shoreline Inventory/Characterization report: **Lake Sammamish** – Shoreline Modifications in section 4.1.4.3 (page 36) estimates "*53% of shoreline planning area parcels have docks*", which equates to approximately 327 out of 616 parcels with docks; **Pine Lake** – Shoreline Modifications in section 4.2.4.3. (page 42) list 31 out of 207 parcels (15%) with docks; **Beaver Lake** – Shoreline Modifications in section 4.3.4.3. (page 47) lists 106 out of 137 parcels (77%) with docks. The report also described the size of existing docks consistently on all three lakes as; "*ranging in length from 30-50 feet*" (ESA Adolfson, 2007).

have overwater structure design and material requirements, further stating that; *“The City will verify that applicants apply for required federal (Army Corps) and/or state (WDFW) permits during permitting/consistency review”* (ESA Adolfson, 2010; 26).

The Army Corps of Engineers (ACOE) working with WDFW and Lake Washington and Sammamish local government staff, created a Regional General Permit (RGP) specifying dock dimensional standards for Lake Washington and Lake Sammamish (RGP 3) that is intended to minimize impacts to juvenile salmon, while also allowing for ‘reasonable’ moorage adjacent to private residential uses. The RGP was intended to provide shoreline property owners with an option to accept prescribed residential pier/dock standards that have been pre-authorized for Endangered Species Act (ESA) compliance, thus allowing the ACOE to streamline the ESA consultation process, resulting in significant design, permit timing and cost savings to the applicant. According to the ACOE, RGP 3 expired in February 2010. However, the ACOE has re-issued RGO 3 as a programmatic ESA consultation exemption (ACOE-Programmatic) with some minor changes to provide additional flexibility for pier/dock replacement proposals. Property owners will not be affected by this change as other than the name change, the ACOE-Programmatic still provides the same opportunities to streamline ESA consultation. The original RGP and the ACOE-Programmatic limit overwater coverage to; no larger than an existing structure for pier/dock replacement, 480-square feet for a single-use pier/dock, 700-square feet for joint-use and 1000-square feet for a pier/dock serving three or more residences. The ACOE-Programmatic also provide; pier/dock width limits, minimum piling spacing and minimum deck transparency (grating) requirements, all of which are based on conservation measures identified within a *Biological Evaluation* for the programmatic (ACOE, 2010) that has been reviewed and accepted as ESA compliant.

Prior to local adoption of Ordinance 2009-265, Ecology provided written comments to the City in a letter dated October 2, 2009 (exhibit C). Within the letter, Ecology noted *“...a number of significant concerns regarding many of the [City Council] proposed changes that will likely make it difficult [for Ecology] to approve the SMP as presently drafted”*. The letter highlighted concerns related to insufficient analysis and inconsistency with SMP Guideline requirements related to setback/buffers protection measures and private pier/dock standards. Ecology’s letter closed with a statement strongly encouraging the City to postpone local adoption until the identified issues could be further discussed, noting that significant changes proposed by the Council to setback/buffer and other (environmental) protection measures (from the November 6, 2008 Planning Commission draft), are substantial enough to require a revision to the City’s original Cumulative Impact Assessment to ensure no net loss of shoreline ecological functions. The City proceeded to adopt Ordinance 2009-265 on October 6, 2009, without any additional supporting analysis or changes to portions of the SMP that Ecology noted as inconsistent with SMP Guideline requirements. According to the record, after adoption of Ordinance 2009-265, the City did amend the Cumulative Impact Assessment in January of 2010.

Ecology finds that the proposed SMP does not require consideration of avoidance or minimization actions, or require mitigation as compensation for shoreline setback reduction (25.06.020) or private Pier/Dock (25.07.050) construction. This finding is based on a lack of analysis, rationale or justification for Shoreline setback standards, setback exemptions, setback reduction standards, and private pier/dock dimensional standards shown to satisfy no net loss of shoreline ecological functions as required by the SMP Guidelines.

Ecology finds that the ACOE RGP 3/2010 Programmatic Pier/Dock standards provide development standards based on scientific and technical information consistent with WAC 173-26-201 (2) (a). These standards have been evaluated by the ACOE, NOAA’s National Marine Fisheries Service, the U.S. Fish and

Wildlife Services, Washington Department of Fish & Wildlife and the Muckleshoot Indian Tribe through a formal Biological Evaluation (ACOE, 2010) and are shown to minimize ecological impacts consistent with ESA consultation requirements and the SMP-Guidelines at WAC 173-26-201 (2) (e). Alternatively, the City's private pier/dock standards (25.07.050) do not appear to be supported by any analysis or justification for allowing additional overwater coverage then the RGP/Programmatic or longer⁶ docks then currently exist within the City. The City's lack of analysis to support allowance of larger pier/dock resulting in increased overwater structure is inconsistent with recommendations within the City's Inventory/Characterization report as well as inconsistent with SMP Guideline requirements related to Environmental Impact Mitigation (WAC 173-26-201 (2) (e), No Net Loss requirements of WAC 173-26-186 (8) and Shoreline Modification (General Principles) 173-26-231 (2) and specific provisions for Piers and Docks at WAC 173-26-231 (3) (b).

As stated within WAC 173-26-186 (8), SMP Policies and Regulations are intended to be "designed" to meet no net loss. This governing principle is intended to be satisfied through development of supporting analysis such as the Inventory/Characterization report or the Cumulative Impact Assessment to inform "design" or creation of appropriate SMP policies and regulations. The City's adoption of Ordinance 2009-265 and subsequent (after-the-fact) revision to the supporting Cumulative Impact Assessment is inconsistent with this SMP Guideline governing principle (WAC 173-26-186) as well as the legislative intent of the Shoreline Management Act under RCW 90.58.

Therefore, Ecology have identified required changes as listed in Attachment B to maintain consistency with SMP-Guideline requirements related to Shoreline Modifications (WAC 173-26-231), No Net Loss (WAC 173-26-186-8), and Environmental Impact Mitigation (WAC 173-26-201-2-e).

Restoration Plan: Pursuant to WAC 173-26-201 (2) (c), "Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2) (f), where such functions are found to have been impaired based on as jurisdictions Inventory and Characterization as described in WAC 173-26-201(3) (d) (i).

It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local governments should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master program. The goal of this effort is to produce master programs which include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county.

The City conducted restoration planning actions consistent with the requirements of the SMP Guidelines and have produced a Final Shoreline Restoration Plan dated January 2008. The plan builds on information gathered through the City's Inventory and Characterization report (ESA Adolfson, 2007). As stated within the plan, *This report provides a framework for: 1) understanding how restoring ecological functions can be accomplished in Sammamish; and 2) suggesting pathways to use the SMP process to restore impaired shoreline functions associated with the City's SMP-regulated lakes* (ESA Adolfson, 2008).

⁶ The City's Inventory/Characterization reports that existing pier/docks range from 30-50 feet in length. The updated SMP allows up to 80-foot long docks or additional length (no limit) to reach a depth of 8-feet.

The City's final Restoration Plan identifies restoration opportunities at the watershed (basin and sub-basin), shoreline (jurisdictional) and site specific level. The plan also prioritizes on-going regional coordination with other regional (restoration) plans and programs. Section 5.0 provides six restorations Goals and Policies, followed by implementation strategies discussed in section 6.0, which includes listing of specific restoration projects within the report. The plan also includes specific sections on; partnership opportunities (section 6.2), potential funding (sections 6.3 and 6.4), timelines/benchmarks (section 6.5) and effectiveness mechanisms (section 6.6) in support of the prioritized restoration opportunities.

Ecology finds that the Final Shoreline Restoration Plan is based on appropriate technical information available to the City during the SMP update. The Final Restoration Plan can serve as an effective tool for the City, non-profit organizations and the public to collectively improve shoreline conditions over time. Such restoration efforts are understood to help achieve the no-net-loss standard of the SMP-Guidelines (WAC 173-26-186).

AMENDMENT HISTORY AND REVIEW PROCESS:

The City initiated the comprehensive SMP update consistent with a scope of work described within *SMA Grant No. GO600310*. The grant agreement originally provided \$70,000 to be allocated to the City between March 1, 2006 and June 30, 2007. Pursuant to a legislative amendment to RCW 90.58, a third year was provided for jurisdictions determined to be making "progress toward completing their SMP-update", thus extending the City's grant deadline an additional year to June 30, 2008. In addition to this description of the City's SMP-update process, exhibit 3 from the City, provides a detailed summary of the City's outreach efforts including a list of all the public meetings related to the SMP update held by the City, a description of the format of the meetings and a overall summary of public input at various stages of the update.

Planning Commission Review: In March 2006, the City started working with a variety of interested parties including; local citizens, regional tribes, neighboring local governments, state and federal agencies to acquire data for development of their master program. The City's consultant and staff worked with the planning commission and participating citizens to first develop the shoreline Inventory and Characterization Report of the City's shoreline areas. This report provided a baseline for consideration of shoreline Environment Designations and SMP Goals/Policies/Regulations within the updated SMP. The record shows that the Planning Commission completed a draft SMP and requested public input on the draft in September 2008. On November 6, 2008, the Planning Commission formally forwarded their final (draft) SMP onto the City Council with a recommendation that the Council approve the SMP as prepared by staff and the Planning Commission. Within this same timeframe, Ecology provided the City with comments (exhibit A) on the Planning Commissions September 2008 draft of the SMP. Ecology's letter (exhibit A) generally praised the City for production of good first draft, noting a need for an aquatic designation, providing critical areas comments and finally suggesting that if the City planned on utilizing their administrative buffer reduction incentives, that they would need to clearly illustrate the net effect of such buffer reductions within the SMP's Cumulative Impact Assessment.

City Council Review: Prior to City Council review of the SMP, the City completed the required Cumulative Impact Assessment and Restoration Plan for the program. A copy of the Cumulative Impact Assessment was provided to Ecology for review on January 21, 2009. Ecology provided comments to the City Council in a letter dated April 9, 2009 (exhibit B) raising a number of concerns related to the Councils changes to the Planning Commissions draft of the SMP. Specifically, Ecology's letter raised

concerns with the Councils version of the SMP related to Pier/Dock development potential, unintended consequences of administrative buffer reductions, specific water quality concerns, lack of adequate shoreline buffer protection, base flood elevation questions and, watershed scale (cumulative) water quality concerns.

The City provided a final draft SMP dated August 2009 for public review prior to formal Council adoption. Again, Ecology provided comments on the final SMP draft in a letter to the City dated October 2, 2009 (exhibit C). Within the October 2009 comment letter, Ecology noted “...a number of significant concerns regarding many of the [City Council] proposed changes that will likely make it difficult [for Ecology] to approve the SMP as presently drafted”. The letter highlighted concerns related to insufficient analysis and inconsistency with SMP Guideline requirements related to: (1) Buffers protection measures, (2) Conservancy Environment Designation, (3) Public Access requirements, (4) Subdivision standards, (5) Residential use priority, (6) Pier/Dock standards, and (7) Additional issues related to a variety of inconsistencies between the draft SMP and relevant SMP-Guideline requirements. Ecology’s letter closed with a statement strongly encouraging the City to postpone local adoption until the identified issues could be discussed, further noting that significant buffer and environmental protection changes from the November 6, 2008 Planning Commission draft were substantial enough to require a revision to the Cumulative Impact Assessment to ensure no net loss of shoreline ecological functions prior to the Councils action.

However, despite notice of Ecology’s concerns with the Planning Commission SMP-draft, as described within the November 13, 2008 letter (exhibit A) and the October 2, 2009 letter (exhibit B) describing concerns with the City’s Cumulative Impact Assessment, the City Council locally adopted their proposed master program on October 6, 2009 through *Ordinance 2009-265*. The significance of changes from the Planning Commission draft SMP to the City Council approved SMP required that the City go back and revise some of the previous analysis like the Cumulative Impact Assessment as the conclusions of the report were based on the Planning Commissions draft of the SMP. Therefore, Ecology did not receive the complete SMP submittal from the City until June 8, 2010, which included an after-the-fact (January 2010) revision to the original Cumulative Impact Assessment to address the City Councils revisions to the SMP.

Ecology finds that the City satisfied the minimum SMP-Guideline standards related to public process (WAC 173-26-201 (3) b) and submittal (WAC 173-26-110) of the SMP to the Department for review. However, Ecology also finds that the City Council’s amendments to the SMP, for which the record does not show any basis or reference to previous SMP analysis (i.e. City prepared Inventory Characterization, Cumulative Impact Assessment, Restoration Plan), were not proposed consistent with the intent of the SMP-Guidelines (WAC 173-26-201) to base shoreline planning on analysis of existing conditions and anticipated future development. Citing this inconsistency, the Department provided the City with a letter (exhibit C) suggesting that supporting analysis will be required in order for Ecology to ensure the Council’s changes are consistent with no net loss. The City Council authorized an amendment to the Cumulative Impact Assessment three months after adoption of Ordinance 2009-265 to be submitted to Ecology for final review. Ecology accepted the City’s submittal of the SMP on February 2, 2010, instigating formal review of the master program. In accepting the SMP submittal as complete, Ecology cited receipt of the materials listed within WAC 173-26-110, irrespective of the specific content of the materials, which would be determine through the departments formal review of the SMP for consistency with applicable SMP Guideline requirements.

DEPARTMENT OF ECOLOGY REVIEW PROCESS

Ecology acknowledged the complete submittal of the City's SMP amendment and supporting materials as consistent with WAC 173-26-110 in a letter to the City dated June 30, 2010, initiating formal State review of the proposed SMP.

Notice of the State (Ecology) comment period was distributed to over 300 individual state task force members and local interested parties identified by the City in compliance with the requirements of WAC 173-26. The State Department of Ecology began accepting comments related to the City's proposed SMP on September 28, 2010 through October 29, 2010. Ecology also accepted testimony on the SMP at a public hearing held at the City of Sammamish - City Hall during the evening of October 7, 2010. Notice of the comment period and public hearing including: a description of the proposed amendment, a link to copies of the amendment and deadlines for public comment were provided in the September, 21, 2010 edition of the *Seattle Times Newspaper*.

Summary of issues raised during the Ecology Public Review Process: Pursuant to SMP Guidelines (WAC 173-26-120) on November 22, 2010, Ecology provided to the City for response, a summary of issues raised through the 37 individual comments submitted to Ecology. Below is a general list of SMP topics raised during the comment period:

SMP Update Process (Local Involvement/SMP Development, Analysis: Use of Science, Effectiveness of Regulations, No-Net-Loss, Restoration), **SMP Protections** (Setback/Buffers, Vegetation Management Standards, Balance Use/Protection), **Shoreline Modifications** (Piers/Docks, Shoreline Armoring Effectiveness) and **Shoreline Uses** (Residential, Public –Recreational, Non-Conforming).

The City provided a final response to Ecology's comment summary as part of their final submittal dated February 3, 2011. The complete record of Ecology's comment summary and the City's response are provided in **Attachment D**.

Attachment D (Responsiveness summary) is characterized by a multitude of clarifications, confirmations, responses and references to additional information related to comments submitted to Ecology during review of the City of Sammamish SMP. The comments represent a variety of perspectives ranging from parcel specific private interests to regional environmental or property rights interests. Many of the comments revolve around issues related to (future) shoreline use, environmental protection, private property rights, protection of the public's interest and update process issues centered on effective public involvement, reliance on supporting analysis and acknowledgment of general community values associated with the update.

Summary of Issues Identified by Ecology as Relevant To Its Decision: Based on review of draft SMP deliverables for consistency with applicable SMP-Guideline requirements, and consideration of issues raised during Ecology's public comment period (Attachment D), the following issues remain relevant to Ecology's final decision on the City of Sammamish SMP:

SMP-Update Process: As evident in review of the public comment response summary (Attachment B) and the City's overall summary of the SMP-update, the public and interested parties were highly engaged in this update. The City reports receiving over 300 comments throughout the update and have generally characterized public meetings as well attended and of value to the City in receiving input from the public and interested parties. Many comments to Ecology noted the significant interest and

involvement of the Lake Sammamish public in development of the SMP, encouraging Ecology to respect local priorities and approve the SMP as approved by the City Council under Ordinance 2009-265. Other interested parties noted the significant changes to the SMP from the Planning Commission draft to the City Council approval, citing concerns related to compliance with the SMP-Guidelines and lack of supporting analysis.

Shoreline Protections and No Net Loss: As referenced above, Ecology received a diversity of comments on the City's SMP that varied from statements that the SMP exceeded State requirements and should be adopted as locally developed, to comments raising specific questions as to the adequacy of shoreline protection standards to satisfy no net loss of ecological functions as required by the SMP-Guidelines. Most comments including Ecology comments on draft deliverables prepared by the City focused on residential shoreline setback/buffer requirements. Many comments suggested that setback/buffers within the Planning Commission draft (and the CAO) were too onerous, would make existing structures non-conforming, do not respect private property rights and would de-value property values. Alternatively, other comments have characterized the Council's changes to the setback/buffer standards as in-adequate to protect shoreline ecological functions, provide too many exceptions, do not provide adequate mitigation, or not fully analyzed to ensure necessary protections for water quantity, quality or habitat.

Related to shoreline Ecological Functions, public/interested party opinions varied from questions as to the contribution of development outside shoreline jurisdiction in increasing water quantity/quality problems, to emphasis on protection of existing lakeshore resources to protect habitat and ensure water quantity/quality problems do not get worse. The City's supporting documents (i.e. Inventory/Characterization Report, Cumulative Impact Assessment) and public dialogue during the update appear to generally recognize water quantity/quality problems. However, opinions differ as to the cause of the problem as well as the timing, scale and priority of actions to alleviate concerns. This complex technical issue is further challenged by equity concerns voiced throughout the City's update related to questions of restoration responsibility for past actions and the necessity for future protection measure (regulations) at what scale and in what locations throughout the watershed.

Ecology finds that the City has done an excellent job at engaging their public and interested parties into the SMP-update process. The City has clearly satisfied minimum SMP-Guideline requirements related to public involvement and public process.

As concluded above (Shoreline Modification, Cumulative Impact Assessment), Ecology finds that the City's obligation under the SMP-Guidelines is to consider potential cumulative impacts that could result from reasonably anticipated future development allowed (within shoreline jurisdiction) through and controlled by policies and regulations⁷ within the updated SMP. Within this analysis the City is to consider potential impacts and identify ways to avoid, minimize or mitigate these impacts consistent with Part three of the SMP Guidelines, specifically focused on consistency with; "Governing Principles" (WAC 173-26-186), "Master Program Content" (WAC 173-26-191), and "Process to Prepare or Amend shoreline master programs" (WAC 173-26-201).

Related to Shoreline Protection and No Net Loss SMP-Guideline requirements, throughout the City's SMP update process, Ecology, provided three letters (exhibit A, B, C) citing concerns with un-analyzed SMP

⁷ Cumulative Impacts resulting from anticipated future development as regulated by: General Master Program Provisions (WAC 173-26-221), Shoreline Modifications (WAC 173-26-231) and, Shoreline Uses (WAC 173-26-241).

protection measures, encouraging the City to either increase the level of resource protection or provide a more thorough analysis within the final Cumulative Impact Assessment for the SMP.

Therefore, Ecology finds that the proposed SMP as approved by the City under Ordinance 2009-265 is not consistent with the applicable SMP-Guideline requirements as specifically identified within Attachment B (Required Changes). However, Ecology also finds that the SMP can be amended to be compliant with the SMP-Guidelines through the City's acceptance of "Required Changes" listed within Attachment B. Pursuant to WAC 173-26-120, Ecology has also identified "Suggested Changes" to the SMP as identified within Attachment C.

Consistency with Chapter 90.58 RCW: The proposed amendments have been reviewed for consistency with the policy and procedural requirements of RCW 90.58.020 and the approval criteria of RCW 90.58.090.

Consistency with "applicable guidelines" (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 251 and -020 definitions; see especially WAC 173-26-201, WAC 173-26-231 Shoreline modifications (including Piers and docks). WAC 173-26-241(3) (b) Shoreline Uses - Aquaculture). This included review of a SMP Submittal Checklist, which was completed by the City and submitted to Ecology on February 3, 2009.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance. The City issued a Determination of Non-Significance for the proposed SMP amendments on August 21, 2009. Notice of the SEPA determination was published in *Seattle Times*, the City provided an opportunity for the Public or interested parties to comment on the DNS between August 21 and September 10, 2009. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology reviewed the following reports, studies, map portfolios and data prepared by the City in support of the SMP amendment:

- *City of Sammamish Shoreline Inventory & Characterization dated June 2007, Restoration Plan dated January 2008.*
- *City of Sammamish, SMP Update – Cumulative Impacts dated August 2009, revised January 2010.*
- *Reference list at the end of this document and references listed in Attachment A (Required changes) and Attachment B (Recommended changes).*
- *Final SMP-checklist dated February, 2009*

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's SMP proposal, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions that is anticipated to result from implementation of the new master program amendments (WAC 173-26-201(2)(c)).

Ecology concludes that the proposed SMP amendment, subject to the required changes in Attachment(s) B and C, meet the intent of the provision for no net loss of shoreline ecological functions (WAC 173-26-201(2)(c)).

Ecology concludes that the City of Sammamish has chosen not to exercise its option pursuant to RCW 90.58.030(2) (f) (ii) to increase shoreline jurisdiction to include land necessary for buffers for critical areas located within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City of Sammamish have complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City of Sammamish have complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City of Sammamish have complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City of Sammamish have complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City of Sammamish SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once changes set forth in **Attachment B** and **Attachment c** are accepted by the City. Ecology approval of the proposed amendment with required changes is effective on the date at which Ecology receives written notice that the City has agreed to the required changes.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action on the amendment.

REFERENCES

- Army Corps of Engineers. 2010. Biological Evaluation Programmatic: Overwater Structures in Lake Washington System – Lake Washington, Lake Sammamish, and Lake Union, Including the Lake Washington Ship Canal. Prepared for U.S. Army Corps of Engineers, Seattle District. Prepared June 2003 by Jones & Stockes Bellevue, Washington. Modified September 2010 by Marcy Reed, Corps of Engineers, Seattle, Washington.
- ESA-Adolfson. 2007. *Shoreline Inventory and Characterization Report*. Prepared for the City of Sammamish Shoreline Master Program Update. Seattle, Washington.
- ESA-Adolfson. 2009. *Shoreline Restoration Plan*. Prepared for the City of Sammamish Shoreline Master Program Update. Seattle, Washington.
- ESA-Adolfson. 2010. *Shoreline Cumulative Impact Assessment*. Prepared for the City of Sammamish Shoreline Master Program Update. Seattle, Washington.
- Exhibit A:** Letter dated November 13, 2008 from Ecology (Dave Radabaugh) to the City of Sammamish (Maren Van Nostrand) providing comments on the City's September 2008 Draft SMP.
- Exhibit B:** Letter dated April 9, 2009 from Ecology (Dave Radabaugh) to the City of Sammamish (Maren Van Nostrand) providing comments on the January 2009 Draft Cumulative Impact Analysis.
- Exhibit C:** Letter dated October 2, 2009 from Ecology (Dave Radabaugh) to the City of Sammamish (Kamuron Guro) providing comments on the City's August 2009 Draft SMP.
- Exhibit D:** Memo dated June 16, 2009 from ESA Adolfson (Margaret Clancy & Laura Brock) to the City of Sammamish providing a summary of technical knowledge associated with the role of lakeshore vegetation in protecting lake ecology.
- Exhibit E:** Comments from Ecology (Patrick McGraner) related to discussion with the City on wetland protection standards.
- Exhibit F:** City of Sammamish response to Ecology dated February 2, 2010
- Exhibit 3:** City of Sammamish Public Participation Summary – Process & Findings (2006-2008)

The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III);

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
1	Governing Principles 25.01.055(6) (b) Page 6.	Mitigation Sequencing	(b) By including policies and regulations that require <u>mitigation sequencing to avoid, then minimize, and then apply</u> mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions in a manner that is consistent with RCW 90.58 and WAC 173-26-201(2)(e)(i).	SMP's must include policies and regulations designed to achieve no net loss of shoreline ecological functions (WAC 173-26-186(8) (b)). The City's Cumulative Impact Assessment provides the following conclusion related to no net loss : "Mitigation measures must be implemented according to standard mitigation sequencing of first avoiding, then minimizing, then compensating for impacts or providing replacement resources" (ESA Adolfson, 2010; 20). Therefore, based on the SMP-Guideline requirements under WAC 173-26-201 (2) (e) Environmental Impact (i), master programs shall integrate mitigation sequencing priorities. The required changes are intended to clarify the required sequence and priority of mitigation actions consistent with the SMP-Guidelines.
2	Relationship to Plans, Policies & Regulations 25.01.060 [new] (5) Page 7.	SMP reference to other municipal code	(5) <u>The following provisions of the Sammamish Municipal Code are adopted as part of this SMP, and attached herein: SMC 15.05 (Surface Water Management), SMC 21.10.120 (Historic Resources) and sections of the City's Critical Areas Ordinance as described within this program 25.01.070.</u>	This change is required to ensure compliance with SMP-Guideline requirements related to Governing Principles of the Guidelines within WAC 173-26-186 (No Net Loss), Basic Concepts within WAC 173-26-201-2 (Use of Scientific/Technical Information, Adoption of Policies/Regulations and Protection of Ecological Functions), General Master Program Provisions within WAC 173-26-221-2 (Critical Areas), Shoreline Modifications within WAC 173-26-231-3 (Provisions for specific Shoreline Modifications), and Shorelines of Statewide Significance within WAC 173-26-251. In order to assess potential Cumulative Impacts resulting from the SMP, the applicable provisions of the SMP need to be clearly described. This required change clarifies which provisions outside of the SMP are applicable to shoreline uses and which provisions are not applicable to development regulated by this program. The exclusions to specified sections of the City's Critical Area Ordinance are described below (Item #3).
3	Critical Areas Regulations 25.01.070 Pages 7.	Critical Areas Integration	The Provisions of the Sammamish Critical Areas Ordinance codified in SMC 21A.50 exclusive of SMC 21A.50.050 (Complete exemptions), SMC 21A.50.060 (Partial Exemptions), SMC 21A.50.070 (Exemptions), and SMC 21A.50.400 (Sunset provisions) are considered part of this SMP. as amended by Ordinance 02009-264 is hereby adopted as a part of this program.	This change is required to ensure compliance with SMP-Guideline requirements related to Governing Principles of the Guidelines within WAC 173-26-186 (No Net Loss), Basic Concepts within WAC 173-26-201-2 (Use of Scientific/Technical Information, Adoption of Policies/Regulations and Protection of Ecological Functions), General Master Program Provisions within WAC 173-26-221-2 (Critical Areas), Shoreline Modifications within WAC 173-26-231-3 (Provisions for specific Shoreline Modifications), and Shorelines of Statewide Significance within WAC 173-26-251. As originally drafted through Ordinance 2009-265, the SMP would allow Complete Exemptions (SMC 21A.50.050), Partial Exemptions (SMC 21A.50.070), Exemptions (SMC 21A.50.070), and a Sunset provision arbitrarily changing Critical Areas provisions back to the City's pre-2006 Critical Areas regulations, which were not based on Best Available Science. The record does not provide sufficient rational, justification or analysis of potential cumulative effects to shoreline ecological functions potentially resulting from allowing these exemptions. Therefore, this required change to eliminate these provisions from the SMP is necessary to ensure compliance with the SMP Guidelines.
4	Critical Areas Regulations City's Critical	Wetlands – Mitigation Requirements	(a) Acreage Replacement Ratios. The following ratios shall apply to wetland creation or restoration that is in-kind, on-site, the same category, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second	The required change is necessary for consistency with the SMP Guidelines in WAC 173-26-221 (2). Specifically, wetland standards under subsections (c) (i) require that SMP wetland standards be consistent with the following standards: (A) Wetland use regulations (B)

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
	Areas Ordinance (Referenced) section 25A.50.310 (6)	Mitigation Ratios	specifies the acreage of wetlands altered. Category I 4 <u>6</u> -to-1 Category II 2 <u>3</u> -to-1 Category III 1.5 <u>2</u> -to-1 Category IV 1.5-to-1	<i>Wetland rating or categorization (C) Alterations to wetlands (D) Buffers (E) Mitigation, (F) Compensatory mitigation) The specified change to the City's mitigation ratio is based on SMP-Guideline requirements under subsection F, Compensatory Mitigation. Please see a more detailed description of evaluation of applicable mitigation ratios within Exhibit E.</i>
5	Definitions 25.02.010 [new] <u>(1)</u> Page 8.	Accessory Dwelling Unit Definition	<u>(1) Accessory Dwelling Unit: Accessory dwelling units are separate living quarters contained within, or detached from, a single-family dwelling on a single lot.</u>	<i>The City has noted that Accessory Dwelling Units (ADU) can be an important component supporting affordable housing and increased density goals of the Growth Management Act. This definition is necessary to support ADU standards within the Residential section of the SMP.</i>
6	Definitions 25.02.010 [new] <u>(2)</u> Page 8.	Accessory Use Definition	<u>(2) Accessory Use. An accessory use is a use associated with the principal use on a shoreline property that is subordinate to the principal use and minor in nature. In order to be classified as an accessory use, a use must commonly occur in the immediate vicinity and in the same shoreline environment. Accessory use includes normal appurtenances.</u>	<i>The draft SMP allowed Accessory uses, but did not provide a definition within the SMP. Therefore, this definition is necessary to provide the intended scope of Accessory Uses within the SMP.</i>
7	25.02.010 (35) (c). Page 11.	Feasible Definition	(35) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short-and long-term time frames (WAC 173-26-030). See reasonable alternative.	<i>"Reasonable Alternative" as defined within the Sammamish Draft SMP is not consistent with the SMP Guidelines (specifically WAC 173-26-030) definition of "Feasible".</i>
8	25.02.010 [new] <u>(41)</u> Page 12.	Geotechnical Report or Geotechnical Analysis Definition	<u>(41) Geotechnical Report or Geotechnical Analysis. Geotechnical Report or Geotechnical Analysis means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.</u>	<i>A definition for a "Geotechnical Report" or "Geotechnical Analysis" is required to describe the scope and intent of a shoreline stabilization analysis as referenced in the City's SMP (Section 25.07.070) and the SMP Guidelines (WAC 173-26-231(3) Shoreline Modifications).</i>
9	25.02.010 (54) Page 13.	Normal Appurtenance Definition	(54) Normal appurtenance. Normal appurtenance means a structure, site improvement, or use that is necessarily connected to the use and enjoyment of a principal use and is located landward of the OHWM. Normal appurtenances include, but are not limited to, garages, decks, walkways, utilities, fences, septic tanks and drainfields.	<i>The amendment is required to ensure consistency with WAC 173-27-040 definition of a "Normal Appurtenance". Shoreline modifications such as Shoreline Stabilization are authorized to protect primary residential structures and "normal appurtenances", for which resulting cumulative impacts to ecological functions must be considered as part of this SMP-update. Therefore, the scope of structures, site improvements or uses considered "normal appurtenances" must be specifically defined to inform the required cumulative impact assessment and overall assessment of no net loss. The required change is necessary to</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
10	25.02.010 [new] <u>(55)</u> Page 13.	No Net Loss Definition	<u>(55) No Net Loss. No Net Loss means the maintenance of the aggregate total of the City's shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and mitigated such that there are no resulting adverse impacts on ecological functions or processes. Each project shall be evaluated based on its ability to achieve the no net loss standard.</u>	<i>appropriately define the scope and definition of "normal appurtenances". The record shows that this definition of "No Net Loss" was originally derived within the City's draft SMP prior to City Council adoption of Ordinance 2009-265. The record does not provide a justification for the Council's decision to remove this definition, nor is there any discussion in the record describing possible amendments to the definition. This definition appears to be based on principle's from the SMP-Guidelines under WAC 173-26-186 (8) and WAC 173-26-201 (2) "Basic Concepts" (c) "Protection of Ecological Functions of the Shoreline". The definition provides appropriate and necessary statements describing continued efforts through implementation of the SMP to satisfy the no net loss goal. Therefore, Ecology has reinstated this definition into the SMP.</i>
11	25.02.010 (66) Page 14.	Reasonable Alternative Definition	(66) Reasonable alternative. Reasonable alternative means an action or proposal that is capable of being carried out, taking into consideration the overall project purposes, needs and objectives. In determining what is a "reasonable alternative" to a proposed development, alteration or activity, the department may consider the purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the alternative action or proposal.	<i>See response under item #6 above, the SMP-Guidelines provide a definition for "Feasible", but do not provide a definition for "Reasonable Alternative". In order to keep the definition within the SMP, the City would need to provide a detailed analysis describing how the exception would be used to administer the Shoreline Master Program, including consideration of potential cumulative impacts resulting from use of this provision.</i>
12	Shoreline Use Goals 25.03.050 (1) Page 21.	Shoreline Use Preference	Give first preference to <u>water-dependent use</u> single-family residential uses and water-dependent uses including public recreational uses that provide public access to shorelines. Secondary p Preference should <u>also</u> be given to water-related and water-enjoyment uses.	<i>The Shoreline Management Act (RCW 90.58) and the SMP-Guidelines specifically under WAC 173-26-201 (2) (d) and 173-26-176 provides a hierarchical preference for water-dependent uses above single-family residential use of the shoreline. The required change is intended to recognize the policy goals of both RCW 90.58 and the SMP-Guidelines.</i>
13	Transportation Goals 25.03.070 [new] <u>(4)</u>	Transportation Mitigation Sequencing	<u>(4) Limit transportation infrastructure in shoreline jurisdiction to the minimum necessary to accomplish its purpose</u>	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>
14	General Policies 25.04.010 (2) (c) Page 24.	Critical Areas Policy No Net Loss Definition	(c) New shoreline uses and developments should be designed and conducted in accordance with the regulations of this Program to <u>avoid</u> , minimize <u>and mitigate</u> damage to the ecology and environment. These regulations are designed to protect shoreline ecological functions and processes. Shoreline ecological functions that should be protected include, but are not limited to, Fish and wildlife habitat, conservation and recovery of threatened or endangered species, food chain support and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; infiltration; groundwater recharge and discharge; sediment delivery, transport, and storage; organic matter input; and nutrient and pathogen removal.	<i>See item #1 (above), change required for consistency with SMP Guideline requirements related to Mitigation Sequencing.</i>
15	25.04.010 (6) (a) i.- [new] <u>i-iv.</u> Page 25.	Shoreline Use Policies	The following uses/developments should be given preference <u>consistent with the priority listed below</u> for locating within the shoreline jurisdiction when they are consistent with City zoning regulations and located, designed, and maintained in a manner that is consistent with this Program: i. Single-family residences, and <u>ii. Water-dependent and water-related use/development; and</u>	<i>The Shoreline Management Act (RCW 90.58) and the SMP-Guidelines specifically under WAC 173-26-201 (2) (d) provides a hierarchical preference for water-dependent uses above single-family residential use of the shoreline. The required change is intended to recognize the policy goals of both RCW 90.58 and the SMP-Guidelines under WAC 173-26, Part III.</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
			<p><u>ii. Public uses and developments that provide physical and/or visual access to the shoreline for substantial numbers of people, and</u> <u>iii. Single-family residences developed consistent with the policies of 25.04.030 (1).</u></p>	
16	25.04.030 (1) Page 29.	Residential Use Policies	<p>(1) Single-family residences and their normal appurtenant structures are a preferred shoreline use <u>when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.</u> New residential development in the shoreline jurisdiction should be located and designed to minimize affects on shoreline process and functions. Residential development should not be allowed to result in a net loss of shoreline ecological functions.</p>	<p><i>The amendment is required to ensure consistency with RCW 90.58 and WAC 173-26 (Part III) reference to single-family residences as a preferred shoreline use. As describe above under Item #8 (definition of normal appurtenance) and item #9 (definition of No Net Loss), even though residential uses are allowed within the SMP, the SMP must describe the scale for which single-family residences are developed to maintaining no net loss of shoreline ecological functions.</i></p>
17	25.04.060 [new] (6) Page 31.	Utility Use Policies	<p><u>(6) When new utilities are to be located within shoreline jurisdiction, they should be installed in such a manner to achieve no net loss of ecological function.</u></p>	<p><i>See item #1 (above), change required for consistency with SMP Guideline requirements related to Mitigation Sequencing.</i></p>
18	General Regulations 25.06.010 (2) Page 35.	Archaeological, Historical & Cultural Resource Regulations	<p>Whenever historic, cultural or archaeological sites or artifacts are inadvertently discovered during shoreline development, work on that portion of the development site shall be stopped immediately, the site secured and the discovery reported as soon as possible to the Director. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation, and the Director shall notify the historic preservation officer, <u>all affected tribes</u> and shall require a site investigation <u>and archaeological study</u> to determine the significance of the discovery.</p>	<p><i>The required change is necessary to clearly describe notification protocols to <u>both</u> the State Department of Archaeology & Historic Preservation and all affected Native American tribes.</i></p>
19	25.06.020 [new] <u>a.- f.</u> Page 35.	Environmental Protection & Conservation Regulations	<p><u>All development projects shall follow mitigation sequencing in the following order:</u> <u>a. Avoiding the impact altogether by not taking a certain action or parts of an action;</u> <u>b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts,</u> <u>c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment,</u> <u>d. Reducing or eliminating the impact over time by preservation and maintenance operations,</u> <u>e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments, and</u> <u>f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.</u></p>	<p><i>See item #1 (above), change required for consistency with SMP Guideline requirements related to Mitigation Sequencing.</i></p>
20	25.06.020 [new] (2) Page 36.	Aquatic bed Wetlands	<p><u>(2) Wetlands located entirely waterward of the ordinary high water mark of a lake shall be regulated by the development standards provided for in the Program, including SMC 25.06.020. Where a wetland area extends landward of the shoreline's OHWM boundary, additional wetland buffer protections pursuant to SMC 21A.50.290 may apply.</u></p>	<p><i>The City has stated that these vegetated wetland areas located entirely waterward of the lake OHWM are protected by the provisions in the proposed SMP for preservation of native waterward vegetation and allowances for removal of invasive vegetation in a manner that is consistent with other SMP goals for shoreline access and use. These vegetated wetland areas located entirely waterward of the lake OHWM will continue to be buffered by the City's Critical Areas (SMC 21.A.50) and SMP lake protections standards. Where a wetland area extends landward of the shoreline's OHWM boundary, additional wetland buffer protections will apply. This required change is necessary to ensure adequate wetland function protection pursuant to the SMP-Guidelines at WAC 173-26-221 (2).</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
21	25.06.020 (5) Page 36.	Mitigation Regulation	<p>Mitigation. Property owners proposing new shoreline use or development shall <u>follow mitigation sequencing principles described in 25.06.020 in addition to other requirements from</u> mitigate adverse environmental impacts in accordance with this Program and other applicable regulations whether or not the use/development requires or is exempt from a shoreline substantial development permit. Mitigation measures are listed in SMC 25.06.020(10) in the table showing shoreline setback reductions.</p>	<p><i>See item #1 (above), change required for consistency with SMP Guideline requirements related to Mitigation Sequencing.</i></p>
22	25.06.020 (7) a, e, f. Page 36.	Shoreline Setback Regulations	<p>Shoreline Setback. A shoreline setback is established for Lake Sammamish, Pine Lake, and Beaver Lake. The shoreline setback area is the area extending forty-five (45) feet (or as reduced by SMC 25.06.020(10)) landward from the OHWM. The following regulations shall apply:</p> <p>(a) Accessory uses and structures, including uncovered decks less than eighteen (18) inches above ground and impervious ground surfaces, are allowed as specified in this Program;</p> <p>(b) Non-water dependent shoreline uses and developments, including residential developments, shall be located landward of the shoreline setback unless otherwise specified by this Program;</p> <p>(c) Docks and shoreline stabilization structures shall be allowed within the shoreline setback as specified in this Program;</p> <p>(d) Public access structures, picnic areas, boat launches, docks and shoreline stabilization structures shall be allowed within the shoreline setback as specified in this Program;</p> <p>(e) Transportation facilities shall be allowed within the shoreline setback as specified in this Program;</p> <p>(f) Utilities shall be allowed within the shoreline setback as specified in this Program.</p>	<p><i>The required change is necessary to ensure consistency with RCW 90.58, WAC 173-26-186 (8) and WAC 173-26-201 (2) (d) references to appropriate development of single-family residential uses (see item #16 above), no net loss of shoreline ecological functions (see item #10 above) and mitigation sequencing (see item #1 above). Following the initial step in Mitigation Sequencing, SMP standards shall seek to avoid ecological impacts, for which allowance of accessory structures, decks and transportation facilities within a shoreline setback does not appear consistent mitigation sequencing principles. The City's shoreline inventory/characterization report (ESA Adolfson, 2007) has concluded that lakeshore vegetation and distance between noise and lighting associated with residential development should be preserved. Further, the City's Cumulative Impact Assessment (ESA Adolfson, 2010) concludes that development should not be allowed closer to the lakeshore, unless offset by restoration, vegetation enhancement or removal of a hard armored bulkhead. Therefore, developments such as "accessory structures", "uncovered decks", or "transportation facilities", should not be allowed within the shoreline setback, unless associated with restoration or enhancement of shoreline ecological functions to not result in a net loss.</i></p> <p><i>Finally, "Utilities" supporting a single-family residential use are considered a "normal appurtenance", which are exempt from the substantial development process pursuant to WAC 173-27-040 and would be allowed within a shoreline setback if no other feasible location outside of the setback is available. Therefore this exception is not necessary and should be removed from the SMP, as the "Utility" reference is too broad and does not specifically identify only those utilities common to a normal residential use (i.e. normal appurtenance).</i></p>
23	25.06.020 (8). Page 37-38.	Shoreline Setback Regulations Partial Exemption	<p>Partial Exemptions. The following developments, activities and uses are exempt from the review process of the Program provided such exempt activities are otherwise consistent with the purpose of the Program and other applicable regulations and state law. The Director may apply conditions to an underlying permit or approval to ensure that the activities are consistent with the provisions of the Program. (Also see Figure 1-)</p> <p>a. ——— Structural modification of, addition to or replacement of existing legally created structures, except single detached residences, in existence before the effective date of the Program, which do not meet the applicable shoreline setback or building setback requirements if:</p> <p>i. — The modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above-</p>	<p><i>The required change is necessary to ensure consistency with RCW 90.58, WAC 173-26-186 (8) and WAC 173-26-201 (2) (d) references to appropriate development of single-family residential uses (see item #16 above), no net loss of shoreline ecological functions (see item #9 above) and mitigation sequencing (see item #1 above). Following the initial step in Mitigation Sequencing, SMP standards shall seek to avoid ecological impacts, for which this list of broad exemptions do not reflect <u>avoidance</u>, <u>minimization</u>, or even require any form or <u>mitigation</u>.</i></p> <p><i>The City's shoreline inventory/characterization report (ESA Adolfson, 2007) has concluded that lakeshore vegetation and distance between noise and lighting associated with residential developments should be preserved. Further, the City's Cumulative Impact Assessment (ESA Adolfson, 2010) concludes that development should not be allowed closer</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
			<p>described shoreline setback or building setback area.</p> <p>b. Structural modification of, addition to or replacement of legally created single detached residences and improvements constructed on existing associated legally created impervious surfaces in existence before the effective date of the Program, that do not meet the applicable shoreline setback or building setback, if:</p> <p>i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline or building setback area by more than 200 square feet over that existing before the effective date of the Program; and,</p> <p>ii. No portion of the modification, addition or replacement is located closer to the OHWM. This exemption may only be used once.</p> <p>c. Structural modification of, addition to or replacement of legally created single detached residences and improvements constructed on existing associated legally created impervious surfaces in existence before the effective date of the Program, which do not meet the applicable shoreline setback or building setback, if:</p> <p>i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline or building setback area by more than 1,000 square feet over that existing before the effective date of the Shoreline Master program; and</p> <p>ii. The footprint expansion extends landward (to the rear) from the existing structure footprint and maintains the same interior lot line setback distances up to the shoreline setback line (known as the "shadow" of the existing structure).</p> <p>d. Select Vegetation Removal Activities. The removal of the following invasive vegetation is allowed with hand labor and/or light equipment; provided, that the appropriate erosion control measures are used and the area is replanted with native vegetation according to a restoration or enhancement plan that has been approved by the City of Sammamish:</p> <p>i. Noxious weeds as identified by Washington State or King County noxious weed lists;</p> <p>ii. Himalayan blackberry (Rubus discolor, R. procerus);</p> <p>iii. Evergreen blackberry (R. laciniatus);</p> <p>iv. Ivy (Hedera spp.); and</p> <p>v. Holly (Ilex spp.), laurel, Japanese knotweed (Polygonum cuspidatum), or any other species on the King County noxious weed list.</p> <p>e. Conservation, Preservation, Restoration and/or Enhancement.</p> <p>i. Conservation and preservation of soil, water, vegetation, fish and other wildlife that does not entail alteration of the location, size, dimensions or functions of an existing shoreline setback or vegetation enhancement area;</p>	<p><i>to the lakeshore, unless offset by restoration, vegetation enhancement or removal of a hard armored bulkhead. Therefore, future lakeshore residential development, should only be allowed to be located closer to the lakes edge if associated with restoration or enhancement of shoreline ecological functions. The "Partial Exemptions" as proposed by the City, have not been shown to result in no net loss of shoreline ecological functions and therefore should not be allowed as part of the updated SMP.</i></p> <p><i>Finally, RCW 90.58.100 states that "Master program regulations", shall;</i></p> <p>"Be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies of this chapter, and local master program policies"</p> <p><i>The City's "Partial Exemptions" do not appear consistent with this Shoreline Management Act standard, as the provisions utilize general language lacking clear ties to specific SMP Goals or Policies or application to specific shoreline uses.</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
			<p style="text-align: center;">and</p> <p>f.—Restoration and enhancement of shoreline setback or vegetation enhancement area; provided, that actions do not alter the location, dimensions or size of the shoreline setback or vegetation enhancement area; that actions improve and do not reduce the existing quality or functions of the shoreline setback or vegetation enhancement area; and that actions are implemented according to a restoration or enhancement plan that has been approved by the City of Sammamish</p>	
24	Figure 1 (Graphic) Page 39.	Partial Exemption and Vegetation Enhancement Area (VEA)	<p>Note: the referenced graphic on page 41 is to be removed from the SMP.</p>	<p><i>Graphic is not consistent with SMP standards as amended by this approval.</i></p>
25	25.06.020 (9) (a) [new] <u>i.</u> – <u>iv.</u> Page 40.	Shoreline Setback VEA	<p>Property owners shall be required to establish and maintain the vegetation enhancement area:</p> <p><u>i. The VEA shall be vegetated pursuant to the standards contained in this section as part of any new development or (exterior) redevelopment project that displaces or effects applicable shoreline setbacks or buffers. For developments or additions of less than 500 square feet, the Director may reduce the landscaping requirements upon a finding that such reduction is necessary to make the landscaping requirement proportional to the scope of the development or redevelopment; or</u></p> <p><u>ii.</u> As required by SMC 25.06.020(10), if they propose to construct or expand the footprint of a residential structure that is located entirely or partially in the shoreline setback or reduced shoreline setback such that the expanded footprint within the shoreline setback will increase by more than two hundred (200) square feet of footprint including when using the partial exemption of SMC 25.06.020(8); or</p> <p><u>iii.</u> If they propose to construct or expand an existing bulkhead or other stabilization structure by more than ten percent (10%).</p> <p><u>iv.</u> Excluded from this requirement are changes to a structure that do not expand the footprint. Also excluded from this requirement is rebuilding in the same footprint plus up to two hundred (200) square feet of additional footprint area within the shoreline setback providing the additional footprint area is not closer to the lake.</p>	<p><i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i></p>
26	25.06.020 (9)(b) Page 40.	Shoreline Setback VEA	<p>(b) The vegetation enhancement area, excluding the active use area, shall be planted or maintained with at least seventy-five percent (75%) by area of the vegetation consisting of native trees, shrubs, and groundcover designed to improve ecological functions. Up to twenty-five percent (25%) by area of the vegetation in the vegetation enhancement area may be composed of non-native or ornamental plantings. <u>The VEA planting plan shall include one tree for every 500 square feet, one shrub for every 25 square feet, and 100 percent ground cover within the VEA.</u></p>	<p><i>As characterized within the City's Inventory/Characterization report, habitat and water quality Shoreline Ecological functions depend on a diversity of trees and shrubs to perform important ecological services. Therefore, enhancement areas should be planted consistent with this characterization of shoreline ecological functions.</i></p>
27	25.06.020 (9)(d)	Shoreline Setback	<p>(a) Structures, decks and paved areas within the vegetation enhancement area may only be located within the <u>limits of the</u> active use area except as otherwise allowed by specified</p>	<p><i>Initially, Ecology identified exception language within this standard to be too broad, for which the Cumulative Impact Assessment did not provide adequate rational, justification or</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
	Page 40.	VEA	<u>within</u> this Program.	<i>analysis to ensure that the standard is compliant with No Net Loss (WAC 173-26-186-8) or Environmental Impact Mitigation/Mitigation Sequencing (WAC 173-26-201-2-e) requirements. However, the City has requested that this provision be retained to clarify administration of the Vegetation Enhancement Standards within the SMP, for which Ecology has revised the standard as shown to ensure compliance with SMP-Guideline requirements.</i>
28	25.06.020 (10) Page 40.	Lake Sammamish reduced Setback	Lake Sammamish Reduced Shoreline Setback. The Lake Sammamish shoreline setback may be reduced in <u>the Shoreline Residential Environment in</u> accordance with <u>mitigation sequencing principles (section 25.06.020)</u> this Program and as shown in the Table 1 below.	<i>The City's Inventory/Characterization report provides the following description of areas designated as Urban Conservancy in northern portions of Lake Sammamish: "The relatively intact shorelines, which are located within a 0.25 mile north of Weber Point, have few modifications in the form of docks or bulkheads and contain significant numbers of mature conifers and cottonwoods. Bald eagles routinely use these areas for nesting and perching. Beaches in this area have natural gradients and substrates and considerable shoreline cover in the form of woody debris and riparian vegetation, providing excellent habitat for juvenile Chinook salmon. Preservation of these shoreline areas is addressed in the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan as important for recovery of Chinook salmon within the watershed." (ESA-Adolfson, 2007; 32). The City has requested that the same shoreline setback reductions be available for the Urban Conservancy designation that are available to the Shoreline Residential designation. The SMP describes the purpose of the Urban Conservancy environment, "...is to protect and restore relatively undeveloped or unaltered shorelines to maintain open space, floodplains, or habitat, while allowing a variety of compatible uses." (section 25.05.020). The priority for the Urban Conservancy environment is to protect <u>existing</u> intact (habitat) ecological functions. Therefore, allowing shoreline setback/buffer reductions within intact riparian/forest lakeshore buffers does not appear consistent with SMP-Guideline requirements related to Environmental Impact Mitigation (WAC 173-26-201-2-e) or No Net Loss (WAC 173-26-186-8), as their appear to be an opportunity to first "avoid" impacts by locating residential uses upland of existing intact habitats, as opposed to jumping straight to "minimizing" impacts through setback/buffer reduction coupled with enhancement. In conclusion, the SMP's shoreline setback reduction (with mitigation) should be limited to the Shoreline Residential designation to ensure compliance with the SMP-Guidelines.</i>

Section 25.06.020 (10) Table 1 - Shoreline Setback Reductions (Page 41).

ITEM	SMP PROVISION	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
29	Reduction Priority Setback Reduction (feet)	Reduction Criteria Reductions may be cumulative, but in no case shall the resulting shoreline setback be less than <u>twenty</u> fifteen (20 <u>15</u>) feet*. Reductions must be utilized in order of highest priority with Reduction Priority No. 1 being the highest priority. Planting in accordance with VEA requirements.	<p>The City has <u>not</u> shown that the minimum 15-foot setback (with buffer enhancement) will adequately protect water quality or habitat shoreline ecological functions pursuant to the SMP-Guideline at WAC 173-26-201(3) (d) (i). Ecology provided feedback to the City, citing concerns related to cumulative impacts and inadequate protection of shoreline ecological functions associated with the proposed shoreline buffer/setbacks in letters dated April, 9 (exhibit B) and October 2, 2009 (exhibit C). The City's Critical Areas Ordinance (CAO) limit buffer reductions (with enhancement) to less than 50% for stream (SMC 21A.50.330.6) and wetland buffers (SMC 21A.50.8), for which reduction of a 45-foot standard shoreline setback down to 15-feet would equate to a 66% buffer/setback reduction. Fresh water wetland and stream features offer similar ecological functions to freshwater lakes, all of which require adequate buffer/setback protections under the CAO and/or SMP pursuant to RCW 36.70A.480. Further, Desbonnet et al (1994), a buffer (forested or grass) ability to contain sediment, nitrogen, nitrate and phosphorus sharply declines on buffers smaller than 25-feet. Ecology have reviewed the City's Cumulative Impact Assessment (ESA Adolfson, 2010), but did not find any conclusions or technical references supporting effective buffers with the ability to contain sediment, nitrogen, nitrate or phosphorus less than 25-feet from the lakes edge. However, the City's Cumulative Impact Assessment did provide the following conclusion related to satisfaction of No Net Loss as required by the SMP Guidelines:</p> <p>"Mitigation measures must be implemented according to standard mitigation sequencing of first avoiding, then minimizing, then compensating for impacts or providing replacement resources (ESA Adolfson, 2010; 20)"</p> <p>Therefore, Ecology will require the noted change to limit development to a minimum of 25-feet (20-foot shoreline setback + 5-foot building setback) upland of the OHWM to minimize potential impacts related to the decline in buffer effectiveness consistent with Environmental Impact Mitigation (WAC 173-26-201-2-e), No Net Loss (WAC 173-26-186-8) SMP-Guideline requirements and for consistency with the City's CAO.</p>
1	15 feet	For removal of an existing bulkhead located at, below, or within five feet landward of the lake's OHWM and subsequent restoration of the shoreline to a natural or seminatural state, including the restoration of topography, soil composition, and vegetation; or,	<p>No changes proposed, standard included only to add context.</p>
30		<p>For restoration of the shoreline to a natural or seminatural state if no bulkhead is present, but other existing unnatural shoreline contours are present; or,</p>	<p>The ecological benefit expected of this provision not clear. The City's Cumulative Impact Assessment (ESA Adolfson, 2010) does not specifically analyze this provision or provide any additional basis or description of the anticipated ecological benefit of this action. Therefore, the provision does not appear consistent with no net loss goals of the SMP-Guidelines. Specifically, it is not clear that ecological impacts associated with allowing development 15-feet closer to the shoreline would be off-set through re-grading of shoreline contours as promoted by this provision? Further, there does not appear to be any additional criteria within the SMP to evaluate or monitor the site specific benefits or impacts of this provision.</p> <p>In general, larger shoreline setbacks or buffers providing more separation between development and aquatic areas are known to provide protections to a variety of different ecological functions i.e. water quantity, quality and habitat (Knight, 2009; Stanley et al, 2005; Desbonnet, 1994, Dillaha, 1993; ESA Adolfson 2007 and 2010), for which even larger setback/buffers are necessary to effectively manage phosphorous input into adjacent aquatic areas (Young, 1980; Shisler, 1980; Stanley et al., 2005). The City's Inventory and Characterization Report (Adolfson, 2007) describes nutrient loading concerns within the City, recommending protection of existing natural lakeshore and minimize removal of shoreline trees and vegetation. Therefore, without a more definitive analysis illustrating clear ecological benefits from this provision, the incentive does not appear to justify the 15-foot shoreline setback reduction and thus should be removed from the SMP to satisfy No Net Loss from the SMP- Guidelines.</p>

31			<p>For preservation of the existing natural shoreline conditions if no bulkhead or other unnatural shoreline features are present.</p>	<p>For similar reasons to those explained above (Item #30), the ecological benefit of this provision are not clear. Additionally, the provision appears inconsistency with no net loss goals, required by the SMP Guidelines. The City has requested to Ecology, that this incentive is necessary to encourage property owners to not illegally remove existing shoreline vegetation that would be protected under both the City's Critical Areas Ordinance (CAO) and updated SMP. Because natural shoreline vegetation should be preserved under the existing authority of both the CAO and the SMP, Ecology cannot see a justification for allowing an additional 15-foot shoreline setback reduction just for preserving existing natural shoreline conditions. The City's Cumulative Impact Assessment (ESA Adolfson, 2010), conclude that the SMP will only satisfy No Net Loss, if mitigation sequencing (i.e. avoidance, minimization, and then mitigation), further the report states that when setbacks are reduced, improvements to shoreline ecological functions can be achieved by "...removing bulkheads, restoring shorelines and planning native shoreline vegetation". The report does <u>not</u> conclude that setback reductions coupled with preservation of shoreline features will result in no net loss. Further, reduction of required shoreline setbacks without offsetting enhancement or restoration would result in a net loss of shoreline ecological function and is not consistent with the requirements of the SMP Guidelines.</p>
32	2	10 feet	<p>For establishment of a 15-foot vegetation enhancement area along the shoreline.</p>	<p>The proposed amendment is required as the original provision did not provide a clear distinction between VEA standards in 25.06 (9) and this setback reduction incentive.</p>
33	3	5-10 feet	<p>For establishment of at least a 5 foot width of native vegetation along the entire waterward side of <u>the OHWM or</u> a modified bulkhead, including the use of small gravel or rock fill, as part of an Army Corps of Engineer approved plan and in compliance with all WDFW and other appropriate agency regulations.</p>	<p>Supporting materials submitted by the City in support of their SMP-update, generally acknowledge ecological affects of future shoreline development as consisting of: increased impervious surface runoff and pollutant transport, vegetation clearing, increased noise and light (glare) impacts (ESA Adolfson, 2007; 2010, Exhibit D). The City's Cumulative Impact Assessment (ESA Adolfson, 2010) generally support enhancement of lakeshore vegetation to support no net loss of shoreline ecological functions. However, these supporting materials do not provide any specific recommendations as to an appropriate vegetation enhancement ratios considering the net result of potential ecologic impacts from the overall setback reduction compared to the benefits of the vegetation enhancement. The City's proposal would equate to an enhancement ratio that is less than 1:1. For wetlands, the City's Critical Areas Ordinance requires enhancement ratios well in excess of 1:1. It is understood that variation in mitigation ratios is needed to fairly recognize variation in the quality of ecological functions that exist within setback/buffer. Further, the City's Inventory/Characterization reports (ESA Adolfson, 2007) characterize much of the Lake Sammamish shoreline as low to moderate levels of ecological function. Therefore, for most areas of the Lake Sammamish shoreline, relatively low mitigation ratio may be appropriate. However, based on minimum protection standards listed in the City's CAO as well as standard ratios used by other jurisdiction, it appears that the vegetation enhancement mitigation ratio should <u>not</u> be less than 1:1.</p>
34	4	5-10 feet	<p>Reduction of 5 feet for impervious surface coverage 10 percent less than the city standard and 10 feet for impervious surface coverage 20 percent less than the city standard as allowed by SMC 25.07.080(2)(b) or (c).</p>	<p>Similar to the discussion above (Item #33), supporting materials for the City's SMP-update do not provide a clear basis for either of these incentives. Therefore, based on the general recommendations provided within the City's Cumulative Impact Assessment (ESA Adolfson, 2010) to reduce impervious surfaces, the 5-foot setback reduction appears consistent. However, the larger 10-foot setback reduction proposed by the City could equate to a much more significant 25% reduction to the standard shoreline setback. Therefore, the larger setback reduction should not be allowed, without further assurance that net benefits of the larger 20% impervious surface reduction, will in fact offset potential impacts associated with the 10-foot shoreline setback reduction</p>
	5	5 feet	<p>For limiting lawn area to no greater than 20 percent of the shoreline jurisdiction area.</p>	<p>No changes proposed, standard included only to add context.</p>
	6	1-10 feet	<p>For every 50 square feet of native planting area added landward of and adjacent to the VEA, 1 foot reduction (up to 10 feet maximum reduction).</p>	<p>No changes proposed, standard included only to add context.</p>

35	7	-5-feet	For preservation of existing native vegetation or restoration of native vegetation, as necessary, in a minimum 5-foot wide nearshore area below the lake's OHWM.	As described in item #31 above, allowing a shoreline setback reduction without compensatory enhancement of shoreline functions would result in a net loss of shoreline ecological function and is therefore inconsistent with the SMP-Guidelines.
	8	5 feet	For preparation of, and agreement to adhere to, a written shoreline vegetation management plan that includes appropriate limitations on the use of fertilizer, herbicides, and pesticides to protect lake water quality.	No changes proposed, standard included only to add context.

* Plus the five (5) foot building setback (SMC 25.06.020)

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
36	General Regulations 25.06.020(10) a. Page 42.	Lake Sammamish reduced Shoreline Setback	(a) — The partial exemption(s) of SMC 25.06.020(8)(b) and (c) may be utilized for modifications, replacements and additions that do not expand the footprint by more than one thousand (1,000) square feet within the shoreline setback in lieu of the reductions authorized in Table 1, with establishment and maintenance of the 15 foot vegetation enhancement area. Establishment of the vegetation enhancement area is encouraged but not required for expansions of two hundred (200) square feet or less.	It is not clear how broadly this exemption would apply to the updated SMP? The City has not provided a detailed analysis of the potential impact to shoreline ecological functions resulting from this provision. In order for Ecology to consider this provision, the City would need to provide a detailed analysis describing how the exception would be used to administer the Shoreline Master Program, including consideration of potential cumulative impacts resulting from the potential use of this provision.
37	25.06.020(12) Page 42.	Pine & Beaver Lakes Vegetation Enhancement Area (VEA)	(12) Pine and Beaver Lakes Vegetation Enhancement Area. A vegetation enhancement area immediately landward of the OHWM is encouraged <u>required</u> , <u>as compensatory mitigation for any new or expanded development that is proposed within applicable shoreline setback or buffer areas. For developments or additions with a total addition of less than 500 square feet, the Director may reduce the landscaping requirement upon a finding that such reduction is necessary to make the landscaping requirement proportional to the scope of the development or redevelopment.</u>	The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.
38	Shoreline Public Access Regulations 25.06.030(2) Page 42.	Public Access Residential Sub-division	(2) New public access is not required for new single-family residential subdivisions <u>of 9 lots or residential units or less.</u>	The City has provided evidence supporting minimal sub-division potential within shoreline management areas. The City has noted that the few lots with the potential to create four or more new lots are located adjacent to existing public (shoreline) parks, for which they have concluded that could public access requirements would not significantly add meaningful public access to City of Sammamish shoreline areas. The City have provided sufficient analysis to support a higher lot division threshold for when public access would be required.

Section 25.07.010 Summary of Uses, Approval Criteria, and Process (Pages 44 – 45).

Table 2: Permitted Uses [Note: Only Uses added or changed are included, this table does not include all section from Table 2 on pages 44 – 45 of the SMP]

ITEM	SMP PROVISION Use (SMP Section)	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]				ECOLOGY - DISCUSSION/RATIONAL
		Lake Sammamish SR	Lake Sammamish UC	Pine and Beaver Lakes SR	Pine and Beaver Lakes UC	
P = Permitted; C = Conditional Use; X= Prohibited						
39	Fill and excavation and grading <u>landward of the OHWM</u> (25.07.030)	P	P	P	P	<i>The required change is necessary to ensure consistency with SMP-Guideline requirements and corresponding use standards within the SMP.</i>
40	<u>Fill waterward of the OHWM, except for ecological restoration</u> (25.07.030)	<u>C</u>	<u>C</u>	<u>C</u>	<u>X</u>	<i>The required change is necessary to ensure consistency with SMP-Guideline requirements and corresponding use standards within the SMP.</i>
41	<u>Fill waterward of the OHWM for ecological restoration</u> (25.07.030)	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<i>The required change is necessary to ensure consistency with SMP-Guideline requirements and corresponding use standards within the SMP.</i>
42	Public recreational use <u>and structures</u>	P	P	P	P	<i>The required change is necessary to ensure consistency with SMP-Guideline requirements and corresponding use standards within the SMP.</i>
43	<u>Agriculture</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<i>All uses that are listed in WAC 173-26-241 should be defined and either prohibited or listed as conditional or permitted uses with appropriate development standards identified to satisfy the no net loss policy goal of the SMP. Since the SMP and supporting materials are silent as to potential impacts associated with "Agricultural" uses, Ecology has prohibited the use to ensure no net loss of shoreline ecological functions consistent with WAC 173-26-186-8 and WAC 173-26-201 (2) (d).</i>
44	<u>Aquaculture</u>	<u>C</u>	<u>X</u>	<u>C</u>	<u>X</u>	<i>Similar comment as above related to potential impacts from "Aquaculture" uses. Therefore, Ecology has prohibited the use in or adjacent to the Urban Conservancy designation, but allowed consideration of Aquaculture as a Conditional Use in or adjacent to Residential designations.</i>
45	<u>Boating Facilities</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<i>Same comment as above related to potential impacts from "Boating Facilities" uses. Therefore, Ecology has prohibited the use within the updated SMP.</i>
46	<u>Water Oriented Commercial Development</u>	<u>C</u>	<u>C</u>	<u>X</u>	<u>X</u>	<i>Same comment as above related to potential impacts from "Water-Oriented Commercial" uses.</i>
47	<u>Non-Water Oriented Commercial Development</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<i>Same comment as above related to potential impacts from "Non-Water-Oriented Commercial" uses. Therefore, Ecology has prohibited the use within the updated SMP.</i>
48	<u>Forrest Practices</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<i>Same comment as above related to potential impacts from "Forrest Practice" uses. Therefore, Ecology has prohibited the use within the updated SMP.</i>
49	<u>Water Dependent Industry</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<i>Same comment as above related to potential impacts from "Water-Dependent Industries". Therefore, Ecology has prohibited the use within the updated SMP.</i>
50	<u>Non-Water Dependent Industry</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<i>Same comment as above related to potential impacts from "Non Water Dependent Industries". Therefore, Ecology has prohibited the use within the updated SMP.</i>
51	<u>Mining</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<i>Same comment as above related to potential impacts from "Mining" uses. Therefore, Ecology has prohibited the use within the updated SMP.</i>

Section 25.07.010 Summary of Uses, Approval Criteria, and Process (Pages 46 - 47).

Table 3: Dimensional Standards [Note: Only Uses added or changed are included, this table does not include all section from Table 2 on pages 46 - 47 of the SMP]

ITEM		BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]				ECOLOGY - DISCUSSION/RATIONAL
SMP PROVISION		Lake Sammamish SR	Lake Sammamish UC	Pine and Beaver Lakes SR	Pine and Beaver Lakes UC	
Docks: Private Residential (SMC 25.07.050)						
52	Maximum Area Single owner	480600 square feet	480600 square feet	480600 square feet	480600 square feet	<i>The required changes are necessary to satisfy no net loss and mitigation sequencing requirements of the SMP Guidelines (see items #1 – Mitigation Sequencing, and item #10 – No Net Loss). The reduction to the City’s dimensional standards are based on technical analysis conservation measures and recommendations provided within the Army Corps of Engineers – Biological Evaluation of programmatic pier/dock standards for Lake Washington and Lake Sammamish (ACOE, 2010).</i>
53	Maximum Area 2 - 9 owners	700800 square feet	700800 square feet	700800 square feet	700800 square feet	<i>The required changes are necessary to satisfy no net loss and mitigation sequencing requirements of the SMP Guidelines (see items #1 – Mitigation Sequencing, and item #10 – No Net Loss). The reduction to the City’s dimensional standards are based on technical analysis conservation measures and recommendations provided within the Army Corps of Engineers – Biological Evaluation of programmatic pier/dock standards for Lake Washington and Lake Sammamish (ACOE, 2010).</i>
54	Dock Width	<u>4 feet within 30 feet of OHWM, 6 feet when more than 30 feet from OHWM</u> Up to 50% of lot width	<u>4 feet within 30 feet of OHWM, 6 feet when more than 30 feet from OHWM</u> Up to 50% of lot width	<u>4 feet within 30 feet of OHWM, 6 feet when more than 30 feet from OHWM</u> Up to 50% of lot width	<u>4 feet within 30 feet of OHWM, 6 feet when more than 30 feet from OHWM</u> Up to 50% of lot width	<i>The required changes are necessary to satisfy no net loss and mitigation sequencing requirements of the SMP Guidelines (see items #1 – Mitigation Sequencing, and item #10 – No Net Loss). The reduction to the City’s dimensional standards are based on technical analysis conservation measures and recommendations provided within the Army Corps of Engineers – Biological Evaluation of programmatic pier/dock standards for Lake Washington and Lake Sammamish (ACOE, 2010).</i>
Setbacks (SMC 25.06.020)						
55	Vegetation Enhancement Area (VEA)	15 feet	15 feet	<u>15 feet</u> Encouraged	<u>15 feet</u> Encouraged	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>
56	Active Use Area	25% of VEA	25% of VEA	<u>25% of VEA</u> No limit	<u>25% of VEA</u> No limit	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>

Section 25.07.020 Shoreline Modification Regulations (Pages 57 – 70).

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
57	<p>Shoreline Modification Regulations 25.07.020(1) (a, b and, f). Page 48.</p>	Dredging Regulations	<p>(a) <u>Dredging shall be the minimum necessary to accomplish its purpose.</u> (b) <u>Projects shall be designed to minimize or eliminate the need for future dredging.</u> (c) <u>Construction of a public dock for public water-dependent recreational use, provided that the dredging is limited to the minimum needed to accommodate the public dock and then only when there is no feasible alternative.</u></p>	<p><i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i></p>
58	25.07.030(5) Page 49.	Filling and Excavation Regulations	<p>(5) <u>Fill shall not be used to alter the OHWM, except as part of an approved restoration project.</u> Filling waterward of the OHWM shall only be allowed when necessary to support one or more of the following:</p>	<p><i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i></p>
59	25.07.030(5)(f) Page 49.	Filling and Excavation Regulations	<p>(f) Expansion or alteration of public transportation facilities <u>of statewide significance</u> currently located in the shoreline <u>on the date of adoption of this SMP</u> where there is no feasible <u>reasonable</u> alternative;</p>	<p><i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i></p>
60	25.07.030(5) Page 49.	Filling and Excavation Regulations	<p>(h) Fill waterward of the OHWM for any other purpose <u>than ecological restoration</u> shall require a Shoreline Conditional Use Permit.</p>	<p><i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i></p>
61	<p>25.07.050 (1) (a), (b) revised new] <u>(i), (j), (k), (l)</u> Page 50.</p>	Private Docks, Floats – Development Standards	<p>(a) No new dock or float shall be wider than fifty percent (50%) of the lot width at the waterfront edge. <u>Pier or docks shall be no wider than 4-feet, except an additional 2-foot of width can be allowed without a variance, for a property owner with a condition that qualifies for state disabled accommodations. The City can also allow without a variance, up to 2-feet of additional pier or dock width limited to areas more than 30-feet waterward of the OHWM, if approved by other permitting agencies, such as the U.S. Army Corps of Engineers or the Washington Department of Fish and wildlife. Otherwise piers and docks shall not exceed 4-feet in width. The area of the float shall be counted as part of the overall pier/dock area.</u> (d) No new float shall cover more than one hundred fifty (150) square feet of the lake. <u>The area of the float shall be counted as part of the overall pier/dock area.</u> (j) <u>Pier, docks, and platform lifts must be fully grated or contain other materials that allow a minimum of 40% light transmission through the decking material. If float tubs for docks preclude use of fully grated decking materials, then a minimum of 2 feet of grating must be installed down the center of the entire float.</u> (i) <u>Except for Pine and Beaver Lakes, ells, fingers and deck platforms can be no closer than 30 feet waterward of the ordinary high water mark.</u> (k) <u>Pilings or moorage piles shall not be treated with pentachlorochlorophenol, creosote, chromate copper arsenate (CCA) or comparable toxic compounds.</u></p>	<p><i>The required changes are necessary to satisfy no net loss and mitigation sequencing requirements of the SMP Guidelines (see items #1 – Mitigation Sequencing, and item #10 – No Net Loss). The reduction to the City’s dimensional standards are based on technical analysis supporting conservation measures provided within the Army Corps of Engineers – Biological Evaluation of programmatic pier/dock standards for Lake Washington and Lake Sammamish (ACOE, 2010).</i></p> <p><i>At the City’s request, Ecology has not required that the 18-foot piling spacing be applied to Pine and Beaver Lakes. The City’s rational for this distinction is based on the presence of relatively shorter docks on Pine and Beaver Lakes, which according to the City may be shorter than 18-feet in total length. Further motorized vessels are not allowed on Pine or Beaver Lakes, therefore smaller docks (potentially shorter than 18-feet) maybe common and should be encouraged without requiring a shoreline variance.</i></p> <p><i>Finally, the City has noted the need to accommodate disabled access to both private and public piers, for which they requested a mechanism to grant relief to maximum 4-foot width standard without requiring a shoreline variance. As part of this request, the City provided a reference to federal agency guidance recommending a minimum of 5-feet of pier width to accommodate disability access. In response to this request, Ecology has added limited flexibility to the 4-foot width limitation, intended to accommodate disability access requirements without review of a shoreline variance.</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
			<u>(l) Except for Pine and Beaver Lakes, the first set of pilings for a pier or dock shall be located no closer than 18 feet from the ordinary high water mark.</u>	
62	25.07.050 (1) (i) Page 51	Private Docks, Floats – Repair and Replacement	(i) Existing legally established private docks and floats may be repaired and maintained <u>repaired or replaced consistent with dimensional, decking and design standards for new piers as described in section 25.07.050 of this chapter.</u>	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements. <u>Note, this will be the required change unless the City accepts recommended changes C, D and E as listed in Suggested Changes (Attachment C).</u></i>
63	25.07.050 (2) (d) i. – ii. Page 51.	Private Docks, Floats – Lake Sammamish Development Standards	(d) Maximum overwater area coverage for private docks on Lake Sammamish, excluding canopy coverage <u>shall not exceed</u> : i. <u>Four hundred and eighty (480)</u> Six hundred (600) square feet for private residential docks serving one lot; or ii. <u>Seven (700)</u> Eight hundred (800) square feet for private residential docks serving two (2) to nine (9) lots in a shared use agreement; or	<i>The required changes are necessary to satisfy no net loss and mitigation sequencing requirements of the SMP Guidelines (see items #1 – Mitigation Sequencing, and item #10 – No Net Loss). The reduction to the City’s dimensional standards are based on technical analysis conservation measures and recommendations provided within the Army Corps of Engineers – Biological Evaluation of programmatic pier/dock standards for Lake Washington and Lake Sammamish (ACOE, 2010).</i>
64	25.07.050 (3) (b) i. Page 52.	Private Docks, Floats – Pine & Beaver Lake Development Standards	(b) Maximum overwater area coverage for private docks on Pine and Beaver Lake <u>shall not exceed</u> : i. <u>Four hundred and eighty (480)</u> Six hundred (600) square feet for private residential docks serving one lot.	<i>The required changes are necessary to satisfy no net loss and mitigation sequencing requirements of the SMP Guidelines (see items #1 – Mitigation Sequencing, and item #10 – No Net Loss). The reduction to the City’s dimensional standards are based on technical analysis conservation measures and recommendations provided within the Army Corps of Engineers – Biological Evaluation of programmatic pier/dock standards for Lake Washington and Lake Sammamish (ACOE, 2010).</i>
65	25.07.060 (1) [new] <u>(b)</u> and <u>(c)</u> . Page 52.	Public Docks and Floats Regulations	<u>(b) With the exception of total overwater coverage, public recreational docks shall comply with design standards required for private docks listed in 25.07.050 (1) (a) – (l) of this chapter.</u> <u>(c) Consistent with 25.07.050 (1) (e) above, the width of public recreational piers and docks should be minimized, but can be authorized up to 6-feet in width subject to Army Corps of Engineer or Washington Department of Fish and Wildlife approval;</u> <u>(d) No public recreational dock shall exceed 3,000 square feet in surface area. There is no dock length limit for public recreational docks, however, public piers and docks shall not interfere with navigation.</u>	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>
66	25.07.070 (1) (a). Page 53.	Shoreline Stabilization Regulations	(a) The impacts must be <u>first avoided, then minimized and then</u> mitigated such that there is no net loss of shoreline ecological functions. This is achieved by maintaining the required vegetation enhancement area in a vegetated condition, or planting the shoreline vegetation enhancement area in accordance with this Program; and	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>
67	25.07.080 (2) [new] <u>(b)</u> . Page 55.	Residential Use Regulations.	<u>(b) Residential structures shall be located to avoid the need for future shoreline stabilization.</u>	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>
68	25.07.080 (2) (d) [new] <u>iv</u> .	Residential Use Regulations.	(d) New accessory structures, excluding accessory dwelling units , may be located waterward of the shoreline setback provided that all of the following criteria are met: <u>iv. Potential impacts are managed consistent with Mitigation Sequencing (i.e.</u>	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
	Page 55.		<u>Avoid, Minimize, and then Mitigate</u>) including identification of appropriate mitigation to offset any anticipated impacts resulting from the project.	Guideline requirements.
69	25.07.080 (3) (a) and (b). Page 56.	Residential Use Regulations	(6) Lake Sammamish. An existing legally established residential structure may be expanded or reconfigured <u>consistent with the substantive requirements of this program.</u> Expansion/modification shall be subject to the requirements of SMC 25.06.020. Expansion shall be allowed in accordance with SMC 25.06.020(8). The minimum distance between the OHWM and the waterward edge of the footprint of the expansion (not including a maximum of eighteen (18) inches of overhanging eaves) shall be at least twenty (20) feet in accordance with SMC 25.06.020. (7) Pine and Beaver Lakes. An existing legally established residential structure may be expanded or reconfigured <u>consistent with the substantive requirements of this program.</u> Expansion into the shoreline setback shall occur only as allowed in SMC 25.06.020(8). Expansion/modification shall be subject to the requirements of SMC 25.06.020.	RCW 90.58.100 states that “Master program regulations” , shall; “Be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies of this chapter, and local master program policies” ; <i>The exception language within this provision does not appear consistent with this Shoreline Management Act standard, as the provisions utilize general language lacking clear ties to specific SMP Goals or Policies or application to specific shoreline uses. Also see response in item #23 above.</i>
70	25.07.080 (5). Page 56.	Residential Use Regulations - Fences	(5) Fences. No portion of any fences within shoreline jurisdiction shall exceed six (6) feet in height, as measured from the existing ground elevation along the proposed fence alignment, and shall not be located within wetlands, streams, or SMC 21A.50 buffers. <u>To the extent feasible, Fences should be located outside of the shoreline setback upland of the OHWM, in an effort to minimize disruption of wildlife migration along shoreline areas.</u>	<i>The required change is necessary for consistency with Environmental Impact Mitigation/Mitigation Sequencing (see item #1) and No Net Loss (see item #10) SMP Guideline requirements.</i>
71	25.07.110 (8) (a). Page 59.	Utilities Regulations	(a) No reasonable-feasible alternative exists; and	<i>See item # 7 above, change is necessary for internal SMP consistency.</i>
72	25.07.110 [new] <u>(10)</u> . Page 59.	Utilities Regulations	<u>(10) Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water oriented, shall not be allowed in shoreline areas, unless it can be demonstrated that no other feasible option is available.</u>	RCW 90.58.100 states that “Master program regulations” , shall; “Be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies of this chapter, and local master program policies” ; <i>The required change provides necessary detail to the utility standards within the SMP.</i>
74	25.08.100(1) (a) Page 63.	Non-conforming Use and Development Standards	(a) Reconstruction, replacement, or expansion of the exterior footprint of an existing, legally established non-conforming structure is allowed provided that the addition or reconstruction does not increase the degree of non-conformity except as allowed in SMC 25.06.020.	<i>The referenced section of the SMP (SMC 25.06.020) has been extensively modified by this decision and therefore should not be referenced within this provision for similar reasons to those stated below under Item #75.</i>
75	25.08.100(1)(c)i Page 63.	Non-conforming Use and Development Standards	i. The maintenance/reconstruction/repair does not increase the extent of non-conformity by encroaching upon or extending into the building setback area or shoreline setback or other area where new construction or use would not be allowed except as specifically allowed in SMC 25.07.080.	<i>The intent of the reference including the “except” statement within this standard is unclear as “non-conforming” standards within the SMP must be administered consistent with other applicable sections of the SMP. Therefore, the “except” statement and reference to SMC 25.07.080 should not be included as part of the approved SMP, as the effect of the provision has not been considered within the City’s Cumulative Impact Assessment (ESA Adolfson, 2010).</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
76	25.08.100(1) (d). Page 64.	Non-conforming Structures	(d)—Existing legally established structures that are non-conforming as to SMC 21A.50 buffer requirements for wetlands, streams, ponds or landslide hazard areas and their building setbacks may be modified, expanded, and/or replaced according to SMC 21A.50.060, sections (1)(a) and (1)(b). Structure non-conformity for any reason other than SMC 21A.50 buffer requirements for wetlands, streams, ponds or landslide hazard areas and their building setbacks must comply with the regulations of this section.	<i>This provision appears to provide an exception to the City's critical areas buffer requirements (SMC 21A.50) for existing non-conforming structures that are "modified, expanded, and/or replaced". The provision does not appear to be consistent with the SMP-Guidelines and has not been evaluated or shown to achieve no net loss within the City's Cumulative Impact Assessment (ESA Adolfsen, 2010). Without any supporting analysis to describe the potential scope and effect (ecological impact) of this provision, Ecology finds that this standard is not consistent with SMP-Guideline requirements (WAC 173-26-186 (8) (b)) related to no net loss of shoreline ecological functions and therefore should not be part of the approved SMP.</i>
77	25.08.100(2) (a). Page 64.	Non-conforming Lots	(a) An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM that was legally established prior to the effective date of this Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations. Such development shall conform to all <u>subject to conformance to</u> other <u>applicable</u> requirements of this program.	<i>The provision as proposed by the City appears to provide a general exception to allow development of a non-conforming lot, "if [the development was] permitted by other land use regulations". The potential application of this exception is not clear and is not specifically described or analyzed by any of the materials submitted by the City in support of the SMP update. Therefore, similar to item #76 (above), Ecology finds that the provision does not appear consistent with SMP-Guideline requirements (WAC 173-26-186 (8) (b)) related to no net loss of shoreline ecological functions and therefore should not be part of the approved SMP.</i>

REFERENCES

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EXHIBITS

Exhibit A: Letter dated November 13, 2008 from Ecology (Dave Radabaugh) to the City of Sammamish (Maren Van Nostrand) providing comments on the City's September 2008 Draft SMP.

Exhibit B: Letter dated April 9, 2009 from Ecology (Dave Radabaugh) to the City of Sammamish (Maren Van Nostrand) providing comments on the January 2009 Draft Cumulative Impact Analysis.

Exhibit C: Letter dated October 2, 2009 from Ecology (Dave Radabaugh) to the City of Sammamish (Kamuron Gurol) providing comments on the City's August 2009 Draft SMP.

Exhibit D: Memo dated June 16, 2009 from ESA Adolfsen (Margaret Clancy & Laura Brock) to the City of Sammamish providing a summary of technical knowledge associated with the role of lakeshore vegetation in protecting lake ecology.

Exhibit E: Comments from Ecology (Patrick McGraner) related to discussion with the City on Wetland protection standards.

Exhibit F: City of Sammamish response to Ecology dated February 2, 2010.

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

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
A	25.06.020 (2) Page 42.	Aquatic Weed Control	(2) Aquatic Weed Control and Noxious Weed Control. Aquatic weed control and noxious weed control may occur when the health and sustainability of native plant communities and associated habitats are threatened or when a water dependent use is restricted by their presence. <u>Control with hand labor and/or light equipment is allowed provided that the appropriate erosion control measures are used and the area is replanted with native vegetation.</u> Control shall occur in conformance with applicable local, state and/or federal regulations.	<i>The City has provided the following request, related to Ecology's required change (Attachment B) to section 25.06.020 (8). [City's SUGGESTION] "Aquatic Weed Control and Noxious Weed Control. Aquatic weed control and noxious weed control may occur when the health and sustainability of native plant communities and associated habitats are threatened or when a water dependent use is restricted by their presence. <u>Control with hand labor and/or light equipment is allowed provided that the appropriate erosion control measures are used and the area is replanted with native vegetation.</u> Control shall occur in conformance with applicable local, state and/or federal regulations."</i>
B	25.06.020 [new] (14). Page 42.	Allowances for Critical Areas	<u>(14) Allowed Activities within Critical Areas within Shoreline Jurisdiction: The following activities are allowed subject only to compliance with best management practices and procedural requirements of this program:</u> (a) <u>Emergencies</u> (b) <u>Public water, electric, and natural gas distribution, public sewer collection, cable communications, telephone utility, and related activities undertaken pursuant to City-approved best management practices, as follows:</u>	<i>This provision includes <u>only</u> allowances that are not redundant with exemptions listed in WAC 173-27-040 or similar allowances within the City's SMP.</i>
C	25.07.050 (1) (m, <u>n, i. – iii.</u>) Page 50	Private Docks, Floats – Repair and Replacement	(m) Existing legally established private docks and floats may be <u>Repaired or Replaced consistent with the following standards provided within this chapter and listed below.</u> (n) <u>Repair or Replacement of an existing Residential Pier or Dock shall be administered as follows:</u> <u>i. Repair proposals which replace 75 percent or greater of the existing pier-support piles are considered replacement piers and must comply with requirements for Replacement Piers (below), and;</u> <u>ii. On Lake Sammamish, repair proposals which replace between 25 and 75 percent of the existing pier-support piles must achieve the minimum 18-foot spacing to the extent allowed by site-specific engineering or design considerations and shall install deck grating on all areas of replaced decking, and;</u> <u>iii. All proposed replacement piles shall be the minimum size allowed by site-specific engineering or design considerations.</u>	<i>These provisions would apply to "repair" or "replacement" of an existing private dock. The provisions are consistent with recent changes to the Army Corps of Engineers Programmatic for Overwater Structures in Lake Washington and Lake Sammamish (ACOE, 2010) and consistent with other regional SMP Pier/Dock standards recently adopted by Ecology. These optional provisions would provide the City with additional flexibility in review of private dock repair or replacement proposals within the limits (thresholds) described within these standards.</i>
D	25.07.050 (1) [new] <u>(o). i. ii.</u> Pages 51.	Private Docks, Floats – Replacement	<u>(o) A Replacement of an existing private Pier or Dock shall be consistent with the following requirements:</u> <u>i. A proposal to replace the entire pier or dock, or 75% or more of the pier-support piles, must meet the dimensional, decking, and design standards for new piers as described above in 25.07.050(1) (a) - (l), except the City may administratively approve an alternative design as provided in 25.07.050(1) (p) below, and;</u> <u>ii. As mitigation for pier/dock replacement, existing skirting shall be removed and may not be replaced.</u>	<i>These provisions would apply to "repair" or "replacement" of an existing private dock. The provisions are consistent with recent changes to the Army Corps of Engineers Programmatic for Overwater Structures in Lake Washington and Lake Sammamish (ACOE, 2010) and consistent with other regional SMP Pier/Dock standards recently adopted by Ecology. These optional provisions would provide the City with additional flexibility in review of private dock repair or replacement proposals within the limits (thresholds) described within these standards.</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
E	25.07.050 (1) [new] (p). i. – iv. Pages 51.	Private Docks, Floats – Replacement Alternative Design	(p) <u>Alternative Design</u> : The City shall approve the following modifications to a pier replacement proposal that deviates from the dimensional standards required by this chapter subject to approval by other permitting agencies, such as the U.S. Army Corps of Engineers or the Washington Department of Fish and wildlife. In addition, the following requirements and all other applicable provisions in this chapter shall be met: i. <u>State and Federal Agency Approval</u> : U.S. Army Corps of Engineers or the Washington Department of Fish and Wildlife have approved the proposal, and; ii. <u>Materials</u> : use of graded decking consistent with this chapter, and; iii. <u>Maximum Area</u> : No larger than existing pier, and; iv. <u>Minimum Water Depth</u> : No shallower than authorized through state and federal approval.	<i>These provisions would apply to “repair” or “replacement” of an existing private dock. The provisions are consistent with recent changes to the Army Corps of Engineers Programmatic for Overwater Structures in Lake Washington and Lake Sammamish (ACOE, 2010) and consistent with other regional SMP Pier/Dock standards recently adopted by Ecology. These optional provisions would provide the City with additional flexibility in review of private dock repair or replacement proposals within the limits (thresholds) described within these standards.</i>
F	25.07.080 (6) (c). Page 56.	Residential Use Regulations - Subdivision	(c) All new subdivisions shall be allowed one additional shared use dock. <u>A pier or dock existing prior to subdivision application</u> An existing dock may remain for either shared use or use by one lot in the subdivision.	<i>This change is only intended to clarify the intent of this provision.</i>
G	25.07.080 [new] (7). Page 56.	Residential Use – Accessory Dwelling Unit	(7) <u>Accessory Dwelling Unit (ADU)</u> . Only one accessory dwelling is allowed per primary single detached dwelling unit. An ADU is only allowed in the same building as the primary dwelling unit when the lot is less than 10,000 square feet in area or when there is more than one primary dwelling on a lot. One of the dwelling units shall not exceed a floor area of 1,000 square feet except when one of the dwelling units is wholly contained within a basement or attic. A detached ADU shall be located outside of all critical area buffers and/or shoreline setback areas and shall not be subject to any shoreline setback reductions or variances.	<i>In response to a City request to allow for Accessory Dwelling Units (ADU) within the SMP, this provision provides the necessary definition and criteria to allow for integration of ADU into the SMP.</i>
H	25.07.080 [new] (8). Page 56. 25.07.110 [new] (11). Page 65.	Residential Use – Accessory Utilities	<u>Accessory Utilities</u> . For single family residences accessory utilities include electrical, gas, water, cable, telephone, and public sewer connections to the primary utilities, and also installation of septic tank and drainfields.	<i>This provision would be inserted into two locations within the SMP at the City’s request to clarify a reference in Table 2.</i>
I	25.08.100(1) [New] (h). Page 64.	Non Conforming - Allowances	(h) <u>Allowances</u> . The following developments, activities and uses are allowed provided such activities are otherwise consistent with this Program and other applicable regulations and law. The Director may apply conditions to an underlying permit or approval to ensure that the activities are consistent with the provisions of the Program. (i) <u>Structural modification of, addition to or replacement of existing legally created structures, except single detached residences, in existence before the effective date of the Program, which do not meet the applicable shoreline setback or building setback requirements if:</u> (a) <u>The modification, addition, replacement or related activity does not increase the</u>	<i>The City has provided the following request, related to Ecology’s required change (Attachment B) to section 25.06.020 (8). Please note that Ecology can only accept these changes as amended (shown to left), as the original language provided by the City included a general reference to “associated legally created impervious surfaces” and exempted a variety of non-conforming expansions between 200 and 1000 square feet, which have not been shown to satisfy No Net Loss (WAC 173-26-186-8) or consistency with Mitigation Sequencing (WAC 173-26-201-2-e) and therefore cannot be allowed within the SMP.</i>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
			<p><u>existing footprint of the structure lying within the above-described shoreline setback or building setback area.</u></p> <p><u>(ii) Structural modification of, or replacement of legally created single detached residences in existence before the effective date of the Program, that do not meet the applicable shoreline setback or building setback, if:</u></p> <p><u>(a) The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline or building setback area over that existing before the effective date of the Program; and,</u></p> <p><u>(b) No portion of the modification, addition or replacement is located closer to the OHWM. This allowance may only be used once.</u></p> <p><u>(iii) Structural modification of, or replacement of legally created single detached residences in existence before the effective date of the Program, which do not meet the applicable shoreline setback or building setback, if:</u></p> <p><u>(a) The modification, addition, replacement or related activity does not increase the existing total footprint of the residence over that existing before the effective date of the Shoreline Master program ; and</u></p> <p><u>(b) The footprint expansion extends landward (to the rear) from the existing structure footprint and maintains the same interior lot line setback distances up to the shoreline setback line (known as the “shadow” of the existing structure).</u></p>	
J	25.08.100(1) [New] <u>(i), (ii), and (iii).</u> Page 64.	Allowed Activities within Critical Areas	<p><u>(i) Allowed Activities in Critical Areas. The following developments, activities and uses are allowed provided such activities are otherwise consistent with this Program and other applicable regulations. The director may apply conditions to an underlying permit or approval to ensure that the activities are consistent with the provisions of this chapter.</u></p> <p><u>(a) Structural modification of, addition to or replacement of existing legally created structures, except single detached residences in existence before November 27, 1990, which do not meet the building setback or buffer requirements for wetlands, streams, ponds or landslide hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above-described building setback area, critical area or buffer.</u></p> <p><u>(b) Structural modification of, or replacement of legally created single detached residences in existence before November 27, 1990, which do not meet the building setback or buffer requirements for wetlands, streams, ponds or landslide hazard areas if the modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the above-described buffer or building setback area by more than existing before November 27, 1990, and no portion of the modification, addition or replacement is located closer to the critical area.</u></p> <p><u>(c) Maintenance or repair of structures that do not meet the development standards of this chapter for landslide or seismic hazard areas if the maintenance or repair does</u></p>	<p><i>The City has provided the following request, related to Ecology’s required change (Attachment B) to section 25.06.020 (8). Please note that Ecology can only accept these changes as amended (shown to left), as the original language provided by the City included a general reference to “associated legally created impervious surfaces” and exempted a variety of non-conforming expansions between 200 and 1000 square feet, which have not been shown to satisfy No Net Loss (WAC 173-26-186-8) or consistency with Mitigation Sequencing (WAC 173-26-201-2-e) and therefore cannot be allowed within the SMP. Finally, provision (iii), exempting review for expansion of non-conforming uses where a previous critical areas review had been done by the City, have also not been included as these provisions do not appear consistent with SMP-Guidelines requirements.</i></p>

ITEM	SMP PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; striketrough-deletions]	ECOLOGY - DISCUSSION/RATIONAL
			<p><u>not increase the footprint of the structure and there is no increased risk to life or property as a result of the proposed maintenance or repair.</u></p> <p><u>(d) Conservation, Preservation, Restoration and/or Enhancement.</u></p> <p><u>(i) Conservation and preservation of soil, water, vegetation, fish and other wildlife that does not entail alteration of the location, size, dimensions or functions of an existing critical area or buffer; and</u></p> <p><u>(ii) Restoration and enhancement of critical areas or buffers; provided, that actions do not alter the location, dimensions or size of the critical area or buffer; that actions improve and do not reduce the existing quality or functions of the critical areas or buffers; and that actions are implemented according to a restoration or enhancement plan that has been approved by the City of Sammamish.</u></p> <p><u>(ii) Existing and ongoing agriculture and grazing of livestock is allowed subject to any limitations established by law, if the agriculture or grazing activity was in existence before November 27, 1990.</u></p>	

REFERENCES

Army Corps of Engineers. 2010. Biological Evaluation Programmatic: Overwater Structures in Lake Washington System – Lake Washington, Lake Sammamish, and Lake Union, Including the Lake Washington Ship Canal. Prepared for U.S. Army Corps of Engineers, Seattle District. Prepared June 2003 by Jones & Stockes Bellevue, Washington. Modified September 2010 by Marcy Reed, Corps of Engineers, Seattle, Washington.

Exhibit D: Memo dated June 16, 2009 from ESA Adolfson (Margaret Clancy & Laura Brock) to the City of Sammamish providing a summary of technical knowledge associated with the role of lakeshore vegetation in protecting lake ecology.

EXHIBITS

Exhibit A: Letter dated November 13, 2008 from Ecology (Dave Radabaugh) to the City of Sammamish (Maren Van Nostrand) providing comments on the City’s September 2008 Draft SMP.

Exhibit B: Letter dated April 9, 2009 from Ecology (Dave Radabaugh) to the City of Sammamish (Maren Van Nostrand) providing comments on the January 2009 Draft Cumulative Impact Analysis.

Exhibit C: Letter dated October 2, 2009 from Ecology (Dave Radabaugh) to the City of Sammamish (Kamuron Gurol) providing comments on the City’s August 2009 Draft SMP.

Attachment D – Responsiveness Summary to Public Comments

The Department of Ecology (Ecology) held an open comment period for the Sammamish Shoreline Master Program (SMP) update from September 28, 2010 through October 29, 2010. Testimony was provided by 18 parties at the public hearing on October 7, 2010 and 17 written comment letters submitted during the comment period. This includes 10 parties that both testified at the public hearing and provided written comments.

In a letter dated November 22, 2010, Ecology summarized the key issues from all the public comments received. The City then responded to the summarized comments in a letter received by Ecology on February 4, 2011. This document is a compilation of Ecology comment summary, the City Response and reference to Ecology's decision. Please see Attachment A (Findings & Conclusions) Attachment B (Required Changes) and Attachment C (Suggested Changes) as part of Ecology's decision for detailed analysis specific SMP elements and conclusions related to the City's (Ordinance 2009-265) compliance with the SMP-Guidelines in WAC 173-26 (Part III).

*Ecology has attempted to insert a general reference to required changes as part of Ecology's decision on the City's SMP. **Please note** that Ecology has considered every comment submitted. However, "decision references" have not been provided for every comment as some comments have been repeated and Ecology may not have made a change within the decision relevant to the comment. Therefore, detailed analysis of specific required changes based on inconsistency with SMP requirements may not be listed within this attachment, but are provided within the Findings & Conclusions (Attachment A), Required Changes (Attachment B) or Suggested Changes (Attachment C) as part of Ecology's decision on the SMP.*

PUBLIC COMMENTS AND TESTIMONY PROVIDED TO ECOLOGY FOR THE CITY OF SAMMAMISH SMP-UPDATE

(Comment 1A, page 1) George Toskey representing the Sammamish Homeowners, public hearing on October 7, 2010: The Sammamish Homeowner (SHO) was extensively involved in commenting on the SMP. SHO was concerned that the earlier draft of the SMP did not provide the balance between the use of the shoreline and the protection of the shoreline environment as required by the Shoreline Management Act. SHO was concerned that the earlier draft SMP contained regulations that conflicted with Washington State Law and the Corps of Engineers' regulations for Lake Sammamish. SHO recommends that the Department of Ecology approve the SMP update as submitted. The update exceeds the state guidelines and has received more than adequate public comment.

1A - City response: *Sammamish has worked to achieve a balance between shoreline uses, private property rights, environmental conservation, and the protection of the public interest as required by RCW 90.58. To help in achieving this balance, multiple opportunities for interested parties to express opinions and concerns were available throughout the update process. The City-adopted SMP strives to accommodate appropriate shoreline uses and development while providing protection of the public interest in maintaining the ecologic functions of the lakes.*

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 1B, page 2) Peter Scontrino, public hearing on October 7, 2010: The Sammamish

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Shoreline Master Program exceeds all state requirements and exceeds the approved no net loss provisions as adopted by neighboring jurisdictions. The SMP has been completed with strenuous effort on the part of the staff, the council, contractors, owners, and citizens of Sammamish. Scontrino urges the Department of Ecology to support the SMP as adopted by the Sammamish City Council.

1B - City response: *Sammamish has worked to achieve the no net loss of ecological function standard as directed by WAC 173-26. A summary of the SMP provisions and no net loss can be found in Chapter 7.0 of the Cumulative Impact Analysis. This summary states “the cumulative actions taken over time in accordance with the proposed SMP are not likely to result in a net loss of shoreline ecological functions from existing baseline conditions.”*

Ecology decision: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 1C, page 2) Erica Tiliacos, representing Friends of Pine Lake, public hearing on October 7, 2010: Tiliacos showed aerial photographs from 1965 and 2009. We currently have more understanding of what the ecological processes are now, as well as a better understanding of what the impact that humans have. In order to achieve no net loss, from here going forward, we have properties that still are yet to be developed. That development is going to cause losses. Restoration is going to be important with the development and redevelopment that can be expected. While Tiliacos believes that we are on the right track with the SMP, she does think is important that the restoration be a very important part going forward.

1C - City response: *The Shoreline Inventory and Characterization Report states that there are few undeveloped or vacant lots in the shoreline planning area of Lake Sammamish, Pine Lake, or Beaver Lake. As noted in the Cumulative Impact Analysis, some of the ‘vacant’ parcels that do exist on Lake Sammamish are used as private recreational properties by community groups. Others are too small to accommodate a residence (Figure 7). Only about 13% of the Lake Sammamish parcels are without existing bulkheads. The CIA addresses development potential on all of the lakes (See pages 41, and 46-47). The location of parcels that are large enough to be subdivided into more than four lots is limited to Pine and Beaver Lakes. Beaver Lake has 11 vacant parcels that could be subdivided based on width and size. Five of these are public parks or preserves, and the remaining parcels are constrained by critical areas that reduce the potential lot yield to four or fewer or have limitations from prior platting or conservation easements. Of the 13 parcels on Pine Lake, one is Pine Lake Park, one is a private open space tract, and one is just over the amount needed for four lots. There is one parcel that could create more than 10 lots and that parcel is 400 feet from Pine Lake Park. For additional information on vacant parcels and subdivision potential, the Vacant Land Parcels and Maps and Subdivision Potential Table is available from the City upon request.*

All new development and redevelopment on the lakes must meet the standards of the City-adopted SMP. These standards restrict activities that would cause adverse impacts to the shoreline environment, encourage other Low Impact Design strategies, and create restoration incentives. The Cumulative Impact Analysis recognizes that additional development will occur, but that the SMP, other regulations, and voluntary restoration efforts “will prevent a net loss of shoreline ecological functions from existing baseline conditions” (CIA 7.0 p 57).

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has

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based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1D, page 3) Jim Creevey, public hearing on October 7, 2010: Creevey was concerned that the earlier draft of the SMP was unfair. Creevey is concerned that the result of the SMP review process will be unfair. Creevey is concerned about his dock. Because his property has little depth, Creevey describes his dock as his front yard. Creevey uses his dock for social and personal purposes. Creevey is concerned about any rules that would make him share his dock with anyone else. Creevey is also concerned that new rules would make it difficult to maintain his dock. Creevey is concerned that “experts” - not having lived on Lake Sammamish – do not have the knowledge to develop SMP standards, as Lake Sammamish residents do.

1D - City response: *Sammamish intends to continue to work to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.*

The state guidelines note that the effect of the master program is “generally on future development and changes in land use” (WAC 173-26-191). The City-adopted SMP is applicable to new development and uses, and specifies that existing legal uses within shoreline jurisdiction may continue (25.06; 25.08.100(3)(a)).

The City-adopted SMP states that “existing legally established private docks and floats may be repaired and maintained” (25.07.050(1)(i)).

Ecology decision reference: Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Comment 1E, page 4) Ilene Stahl, representing Friends of Pine Lake, public hearing on

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October 7, 2010: When Sammamish became a city in 1999, lakes had a 100 foot buffer with a vegetation requirement. After incorporation, the buffer on Pine Lake was eliminated. The SMP proposes to continue to not provide buffers on Pine Lake. Stahl is concerned that instead of applying science, the City Council yielded to perceived public opinion. Stahl states the view that the small lakes, and even Lake Sammamish, belong to everyone. Stahl advocates the application of science to preserve our lakes for future generations.

1E - City response: *The City-adopted SMP provides protection to the shoreline of Pine Lake by requiring a structure setback of 50 feet (shoreline setback of 45 feet and a building setback of 5 feet), by restricting new development and uses within this setback, and by requiring 80% tree retention within shoreline jurisdiction (25.06.020). Additionally, it encourages a vegetation enhancement area immediately landward of the Ordinary High Water Mark (25.06.020(12)). These provisions are in line with the best available science recommendations of the Management of Pine Lake Water Quality study which is included in Folder 5 – Related Documents of the SMP submittal to ECY. Since incorporation the City has also adopted the CAO, Storm Water Manual, and Public Works Standards to further improve the water quality of all City lakes.*

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1F, page 5) Linda Eastlick, public hearing on October 7, 2010: Eastlick supports the SMP adopted by the City Council. Eastlick states that the Pine Lake Study demonstrates that water quality has been improving during the past 10 years with the existing regulations in effect. The SMP has a more stringent tree retention policy than the existing regulations. Eastlick states that the proposed tree retention regulations would represent a net gain in ecological function. It is important to be able to clear the shoreline area of detritus to reduce nutrient flow to the lake.

Eastlick is also concerned that there is a requirement for restoration associated with the removal of noxious weeds. Eastlick believes that education programs would work better than regulations.

1F - City response: *Sammamish has included the Management of Pine Lake Water Quality study in the ECY SMP submittal. As noted above, the study states that the water quality of Pine Lake has improved since 1988. The study also states that “Pine Lake has a relatively small area and is mostly surrounded by large trees that protect it from wind that could otherwise deepen the mixed layer” which could result in increased summer algal blooms. Due to this finding, the City-adopted SMP has more restrictive tree retention regulations for Pine and Beaver Lake than for the rest of*

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Sammamish. In order to protect water quality, 80% of the significant, non-hazard trees within the shoreline jurisdiction must be retained (25.06.020(11)).

The City-adopted SMP states that aquatic and noxious weed control may occur in order to protect native plant communities and associated habitats when done in conformance with applicable law (25.06.020(2)). Clearing and grading is also allowed when necessary to accommodate allowed use/development including landscaping and the establishment of a vegetation enhancement area (25.06.020(3)). Consistent with the existing Critical Area Ordinance, the SMP requires replanting when invasive vegetation is removed from critical areas. The city's wetland biologist provides educational information and assistance regarding the property owners' removal of noxious weeds.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology's findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology's decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology's Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City's supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1G, page 5) Gary Galloway, public hearing on October 7, 2010: Galloway is not a shoreline property owner and will rely on public beaches. Galloway is concerned that activities related to shoreline stabilization will make public beaches less usable. Galloway wants public beaches to be accessible and usable.

1G - City response: *The SMP contains policies that address public access to public beach areas. The shoreline stabilization policies in the City-adopted SMP recognize the importance of site-specific solutions and the need to accommodate shoreline public access (25.04.020(5)). Stabilization needed to facilitate public shoreline access for substantial numbers of people is allowed on public land if bulkhead alternatives are determined to be infeasible or insufficient (25.07.070(3)).*

(Comment 1H, page 6) Jack Rogers, public hearing on October 7, 2010: Rogers supports adoption of the SMP as written. Rogers questions the effectiveness of vegetated buffers given that most stormwater is channelized. On Pine Lake, a 2009 water quality study conducted by Tetra Tech showed an improvement in water quality over a 15 year period due to a water diversion. Rogers states that 61 percent of the water flowing into the lake comes from outside of the SMP area. The SMP area only represents 7 percent of the basin. Rogers states that vegetation in drainage channels would be more effective in protecting water quality.

1H - City response: *Sammamish has included the Management of Pine Lake Water Quality study in the ECY SMP submittal. For additional study information please see Comment 4. Areas outside*

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of shoreline jurisdiction are not within the direct jurisdiction of the SMP. Sammamish requires projects needing drainage review to meet the core requirements contained in the 1998 King County Surface Water Design Manual and directs ongoing water quality compliance through the use of the best management practices contained in the 1998 King County Stormwater Pollution Prevention Manual (SMC 15.05.010). Projects within the Pine and Beaver Lake watersheds that are larger than 5,000 square feet, must include storm water facilities designed to remove 80 percent of all new phosphorus loading (21A.50.355(8)(a)). Additionally, Sammamish uses incentives to encourage incorporation of LID planning and design approaches into project development. Streamside vegetation is regulated under SMC21A.50. The City is currently in the process of adopting stormwater provisions that meet equivalency to the Department of Ecology Stormwater Management Manual for Western Washington.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 11, page 6) Gary Morishima, public hearing on October 7, 2010: Some terms in the Department of Ecology presentation, such as ecological function and no net loss are fairly nebulous and somewhat elusive as to their meaning. Morishima urges Ecology to be explicit as possible as to what is being evaluated. How does Ecology consider anthropocentric versus natural processes with respect to the no net loss standard? How are impacts to ecological functions from outside of the shoreline management area taken into account in terms of the no net loss standard? Many impacts in the basin have sources outside of the shoreline area.

11 - City response: *Comment noted.*

Sammamish Municipal Code regulates maximum impervious surface and the stormwater runoff impacts of new development within the city, for areas both inside and outside of shoreline jurisdiction.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of

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impairment of water quality, water quantity and habitat functions. As described within Ecology's Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City's supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1J, page 7) Mike Collins, public hearing on October 7, 2010: Collins noted that the drainage basin in the photographs showed by Erica Tiliacos were part of a larger drainage basin. SHO supports green shorelines. Green shorelines should be part of this presentation. Collins supports equal protection and equal responsibility. The SMP cannot stand alone. Surface water management is more relevant. Transportation is the number one cause of problems that it concerns itself with.

Rain water harvesting is the major change that we should promote in surface water management. Public agencies should facilitate rainwater harvesting.

1J - City response: *Within the City-adopted SMP, new shoreline uses and developments "shall incorporate all known, available, and reasonable methods of preventing, controlling and treating stormwater to protect and maintain surface and ground water quantity and water quality". Additional city wide regulations regarding stormwater are included in SMC 15.05 and 21A.50. Sammamish encourages the use of rainwater harvesting and other LID stormwater management methods.*

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the "required" (Attachment B) and "suggested" (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology's findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology's decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology's Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City's supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1K, page 8) Boyer Halvorson, public hearing on October 7, 2010: Halvorson supports the SMP as submitted to Ecology. Halvorson is concerned that easements in the form of buffers is illegal. Redmond and Kirkland have approved SMPs without buffers while meeting the no net loss standard. It would be a bad idea to reopen the issue of buffers. How could anyone think that a buffer is

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necessary on a small inland lake with no salmon or native fish of any sort and steadily improving water quality? How could any state agency defend buffers in court? The SMP submitted to Ecology is a fair and balanced plan.

1K - City response: *Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.*

Pine and Beaver Lakes require 80% tree retention to protect water quality. The results of the Pine Lake water quality study indicate the importance of trees on wind mixing and water quality. There is also a city requirement for all known and reasonable technologies (AKART) phosphorus standard for new development on Pine and Beaver Lakes. Vegetation enhancement areas are encouraged.

For additional information on vegetation management areas please see comment response 1E and 1O.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1L, page 8) Kathy Richardson, public hearing on October 7, 2010: Richardson states that the Ecology press release characterized the Sammamish SMP as “a landmark effort that will significantly increase protection and restoration of Lake Sammamish, Pine Lake, and Beaver Lake.” Richardson states that the Sammamish SMP not only achieves, but exceeds WAC standards for no net loss. Richardson states that the vegetation conservation provisions in the SMP not only prevent net loss, but encourage net improvement. The standards in the SMP address specific situations on shorelines in Sammamish.

Richardson states that the SMP makes adequate provision for public access by relying on public parks.

Richardson states that the pier standards in the SMP adequately protect the functions of lakes. There are very few properties on Lake Sammamish and Pine and Beaver Lakes that don’t already have docks. Richardson states that the SMP adopted by the City Council will result in a net reduction in impacts from docks.

1L - City response: *The City-adopted SMP provides protection to the lake shorelines by requiring*

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a structure setback of 50 feet (shoreline setback of 45 feet and a building setback of 5 feet) on all lakes. Lake Sammamish properties have an opportunity for setback reductions through the use of restoration incentives. New development and uses within this setback are restricted, while incentives for vegetation and reduced impervious surfaces are provided (25.06.020). On Pine and Beaver Lakes 80% tree retention within shoreline jurisdiction is required.

The Shoreline Public Access Regulations are consistent with Sammamish’s Comprehensive Plan, Open Space Plan, and various park master plans. A Public Access Summary that features citywide shoreline park and open space plans along with bike and pedestrian access routes is included in Folder 5 – Related Documents of the SMP submittal to ECY.

The Cumulative Impact Analysis estimates that 87% of Lake Sammamish shoreline parcels, 75% of Pine Lake shoreline parcels, and 73% of Beaver Lake shoreline parcels have docks. The City-adopted SMP limits the length and square footage of new docks, and requires that they be built using WDFW approved materials and methods. The Cumulative Impact Analysis supports Ms. Richardson’s statement that over time the City-adopted SMP will result in a reduction of overwater coverage (CIA 5.2.1 page 42).

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1M, page 9) Tim Trohimovich representing Futurewise, public hearing on October 7, 2010: Futurewise is happy that people got involved in the Sammamish SMP update. However, Futurewise is concerned that the Sammamish SMP will not protect shoreline resources. Particular concern is expressed regarding the setback and vegetation protection provisions. Futurewise is concerned that the vegetation conservation standards are not adequate to protect threatened species. Futurewise urges Ecology to take a hard look at the vegetation conservation standards and the relevant science.

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1M - City response: *Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58. For additional information, please see the city response to Comment 19.*

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1N, page 10) Urban Massett, public hearing on October 7, 2010: Massett is concerned that, without bulkheads, shorelines on the north side of Lake Sammamish will suffer shoreline erosion. Massett says that he has heard from people on the Sound that complain that Ecology is kind of shutting them down, making their property worthless. Massett believes that Ecology is just not doing its job.

1N - City response: *The City-adopted SMP requires that new residential development and normal appurtenances must be located where they won’t require new structural shoreline stabilization. Existing residences may be protected by appropriate shoreline stabilization methods when a qualified engineer determines they are threatened from erosion caused by currents or waves (27.07.070(2)).*

Ecology decision reference: (Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for

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consideration of future armoring proposals.

(Comment 1-O, page 10) C.J. Kahler, public hearing on October 7, 2010: Kahler states that there is a lot of evidence that supports the idea that the vegetation conservation provisions of the adopted SMP are adequate to achieve no net loss. Kahler is concerned that the scientific evidence that was presented on the subject of lake shore vegetation, and its role in protecting lake ecology, fails to scientifically demonstrate the ecological benefits of vegetation. Kahler cites a memorandum of June 16, 2009 from ESA Adolfson which states “vegetative lake shore homes may also contribute more nutrients than they remove.” Kahler cites the an article in the Journal of Environmental Quality arguing that grass does as good of a job at trapping phosphorous as a native vegetative strip. Kahler notes that the Pine Lake Water Quality Report did not have clear direction on vegetative buffers. Kahler states that the Pine Lake Water Quality Report documented that the quality of Pine Lake has improved during the past 15 years. Kahler supports the SMP adopted by the City Council.

10 - City response: *The ESA Adolfson memorandum of June 16, 2009 offers an overview of several scientific studies regarding lakeshore buffers and water quality. It notes that vegetated areas may contribute more nutrients than they remove. It also quotes a 2004 study by Hubri et al that found “dense vegetation generally increases treatment of surface water quality” (ESA Memo included at end of this document). By requiring tree retention and encouraging vegetation at the shoreline, Sammamish will maintain ecologic function of their lakes (CIA 4.2.2 p 25).*

For additional study information regarding water quality management please see Comment 4.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1P, page 11) Rory Crispin, public hearing on October 7, 2010: Crispin notes that the SMA establishes a cooperative program with primary responsibility for planning resting with the local government. Crispin reads the SMA to mean that Ecology shall provide support to, and be a public servant of, local governments. Crispin states that the SMA gives wide latitude to local governments. Crispin states that the Sammamish SMP complies with the provisions of 90.58 RCW. If Ecology is unable to identify specific relevant policy goals of the SMA, and how they were not addressed in the SMP process, then Ecology should concur with the SMP as adopted by the City.

1P - City response: *Comment noted.*

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Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 1Q, page 12) Reid Brockway, public hearing on October 7, 2010: Brockway states that the draft SMP should be largely unchanged, because it's consistent with state statutes, honors the root of no net loss, strikes a reasonable between the interest of the people and the environment, and was the product of a great deal of work. Brockway is concerned that the SMP requires a restoration plan to remove a single plant. Brockway is concerned that the definition of development includes reroofing. Brockway is concerned that the SMP requires a joint use dock for subdivisions. The SMP should have a dispute resolution and ombudsman system. Brockway only wishes to see these issues addressed if the SMP is opened up for review.

Brockway states that Lake Sammamish is a system in disequilibrium because the lake of lowered by dredging of the slough. Brockway states that Lake Sammamish is not a city-state¹ system. This situation has an effect on shoreline stabilization measures.

***1Q - City response:** The City-adopted SMP allows for clearing and grading necessary to accommodate the allowed use/development. This includes that necessary for landscaping (25.06.020(3)). It also allows for aquatic and noxious weed control if native plant communities or water dependent uses are threatened as long as controls conform to local, state and/or federal regulations (25.06.020(2)). Within critical areas, vegetation removal is allowed using the Partial Exemptions provisions of 25.06.020(8)(d). This provision is consistent with current Sammamish practice.*

The definition of development is the one used by the Washington Administrative Code. Maintenance, including reroofing an existing structure, is exempt from the review process of the program (25.07.080(3) & 25.06.020(8)). The City-adopted SMP does not require a Shoreline Substantial Development Permit to reroof an existing structure.

Requiring joint use docks for subdivisions is consistent with the state guidelines and helps ensure that Sammamish meets no net loss requirements (WAC 173-26-231(3)(b) & CIA 5.2.2 p. 45-47). One additional joint use dock would be allowed per subdivision.

The City-adopted SMP requires that new residential development and normal appurtenances must be located where they won't require new structural shoreline stabilization. Existing residences may be protected by appropriate shoreline stabilization methods when a qualified engineer determines they are threatened from erosion caused by currents or waves (27.07.070(2)).

A flow control weir at the North end of Lake Sammamish controls the discharge volume and rate. The turnover or flushing rate of the lake is relatively long for the size and volume of the lake (Inventory and Characterization Report p 10 & 30). The report notes that the shores of Lake Sammamish are subject to erosion caused by foot traffic, local surface runoff, wind-driven waves, and waves from motorized watercraft (p 26).

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version

¹ Sammamish believes the phrase transcribed as “city-state” is correctly transcribed “steady-state”.

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(Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Comment 1R, page 13) Dwight Martin, public hearing on October 7, 2010: Martin requests that Ecology approve the Sammamish SMP as submitted. The SMP was developed with ample input. RGP-3 is a minimum standard that need not be applied to Lake Sammamish. The sunset clause in the CAO should be of no consequence to Ecology. This is because the requirements in the CAO are no less restrictive in the shoreline area as the rest of the city. Martin believes that when the CAO changes it will be consistent in the shoreline jurisdiction as the rest of the city.

Ecology should not be concerned about the mitigation setback area. We start with a 20 foot setback. A 50 foot setback makes many homes nonconforming. Martin is concerned that property sales have been lost because houses were nonconforming. Martin does not believe that this is fair. Martin supports the provision for a 200 square foot expansion in a shoreline setback. Martin concludes that that is a very minimum amount of relief.

1R - City response: *Sammamish has incorporated by reference SMC Critical Areas Ordinance 21A.50, as amended by O2009-264. The ordinance is included in the Related Documents folder of the submitted SMP. The ordinance is consistent throughout Sammamish. Any changes to SMC 21A.50 affecting shorelines will need to be reviewed and approved by ECY in order for the changes to apply within Shoreline Jurisdiction. The City-adopted SMP includes the statement that “where this Program makes reference to any RCW, WAC, or other federal, state or local law or regulation, the most recent amendment or current edition shall apply” however, the reference to SMC 21A.50 is specific to O2009-264 (25.01.060(3) & 25.01.070).*

A onetime expansion of 200 square feet is allowed for legally established non-conforming houses

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(25.02.060(10)(a)). For additional information regarding setbacks, non-conformance, and partial exemptions please see Comment 11.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

(Comment 2) Carole A. Williams, written comment received during the public comment period: Please approve the SMP as adopted by the City.

2 - City response: *Comment noted.*

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26

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(Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 3) Mike Collins, written comment received during the public comment period: Please accept (and) approve the Sammamish SMP.

3 - City response: *Comment noted.*

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 4) Kate Bradley, written comment received during the public comment period: Ms. Bradley states that she is a volunteer lake monitor, taking water quality related measurements in Pine Lake on a weekly basis.

Bradley reports that several years ago she got permits from the City to place several logs in Pine Lake near the shore and fill behind them to protect a tree from wave erosion. More recently, in order to get a permit to do similar work, Bradley would need to hire a hydrological engineer to determine the location of the ordinary high water mark. Bradley decided to not do the project.

Bradley stated that the City required a permit for a dock replacement. Bradley concludes that it is better to know where geese defecate in or to be able to remove it than to not know.

Bradley contents that the Tetra Tech study regarding Pine Lake water quality was conducted during a dry year and not valid. Bradley is concerned that there is considerable drainage from upland properties to the lake. Bradley does not believe that buffers would be effective.

Bradley relates a story where several trees were damaged due to a septic drainfield installation. Bradley believes that it would have been better to remove and replace the trees when the drainfield was installed.

Bradley concludes that we need fewer laws more knowledge and a commitment from residents to protect the lake.

4 - City response: *Sammamish appreciates the many types of volunteer work done by residents.*

The Shoreline Master Program is written to be consistent with state requirements. Working at or within the waters of the state for purposes of bank protection or dock repair may require permits from appropriate agencies.

The City-adopted SMP will require a shoreline exemption and permit for dock replacement. This is consistent with current regulations and practice.

The Tetra-Tech report, Management of Pine Lake Water Quality, states that precipitation during the study year (2005) was approximately 8 percent below normal. The report recognizes the low rainfall and takes it into account when reaching its conclusions. The study recommends several

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methods to control phosphorus runoff into the lake. These include: that all development and redevelopment comply with the 2005 revised CAO, including that all new development within the Pine Lake Watershed retain 80% of the total phosphorus in runoff on an annual basis; that biobuffers and stormwater management for water quality controls continue to receive high priority within the City; and that retention of shoreline vegetation and trees surrounding the lake be encouraged (Management of Pine Lake Water Quality 6.2 & 6.4). The City-adopted SMP encourages residents on Pine and Beaver Lakes to include a vegetation enhancement area immediately landward of the OHWM (25.06.020(11)). It also requires that 80% of the significant trees within the shoreline jurisdiction be retained (25.06.020(11)).

Retention of trees that are hazardous is not required (25.06.020(11)).

Sammamish is expecting to continue providing education regarding shoreline protection to its citizens.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 5) James Creevey, written comment received during the public comment period:

Ecology should take into account the time that the City Council and citizens have put into the SMP. Creevey states that the SMP exceeds existing requirements of the County and State in many respects and should be approved as written.

5 - City response: *Comment noted.*

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-

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265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 6) Beth Nelson, written comment received during the public comment period: Ms. Nelson requests that two specific parcels be designated Shoreline Residential rather than Urban Conservancy. Nelson states that the parcels are located in a residential area with houses on parcels to the immediate south. Nelson is concerned that the Urban Conservancy designation will devalue the property in question.

6 - City response: *State guidelines specify four principal factors to be considered in applying environmental designations: existing use, biological and physical character, comprehensive plan goals, and the state's designation criteria. The two parcels of concern to Ms. Nelson, parcel 2025069071 & 9085) are vegetated and do not include existing residential structures. They are located at the southern end of a reach just south of Weber point on the Lake Sammamish shoreline. The reach includes vegetative cover and small tributaries, and it retains ecologic functions that benefit the lake (Inventory and Characterization Report 4.1.2, p 32-33, shoreline Map 1). These parcels are comparatively less developed than parcels designated Shoreline Residential by the City-adopted SMP. An Urban Conservancy designation for these parcels is consistent with the Urban Conservancy environment in the state guidelines (WAC 173-26-211(5)(e)).*

According to County records, these parcels are currently designated Conservancy. City-adopted SMP designation of Urban Conservancy is consistent with their current designation and should not affect the value the property.

Ecology decision reference (Shoreline Environment Designations) Ecology has provided analysis and a finding related to the City's designation of shoreline environments. Ecology provided comments throughout the update process recommending a number of specific recommendations to the City's related to their proposed environment designations. However, as provided in the Findings & Conclusion (Attachment A) Ecology has determined that the City provided a adequate basis to support their adopted environment designations consistent with applicable sections of the SMP-Guidelines.

(Comment 7A-F) Karen Walter for the Muckleshoot Indian Tribe, written comment received during the public comment period:

7A – Characterization: Coho, Sockeye, and Cutthroat trout are all documented within Tibbetts Creek and Issaquah Creek. Kokanee are documented in Tibbetts Creek.

On page 15 of the characterization, one of the known human-created barriers (i.e. culvert under a house) on George Davis Creek was to be replaced as part of a redevelopment project (Titcomb house/shoreline project PLN2008-00023).

Currently, Lake Sammamish is an area where the Muckleshoot Indian Tribe routinely exercises its treaty fishing rights. The Characterization implies that there is only historical fishing by the Muckleshoot Tribe. The Muckleshoot comment letter states that Snoqualmie Tribe's fishing rights have not been adjudicated and they are not party to U.S. v. Washington where the "Usual and Accustomed Fishing Areas" were defined by the Federal court.

The comment letter identifies locations where the Muckleshoot Tribe believes that more recent data regarding piers exists.

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7A - City response: *Comments regarding the Inventory and Characterization Report are appreciated and noted. The report was finalized in June 2007 as part of the SMP Update process. The report was initially completed as a Draft document, and revised consistent with comments from neighboring jurisdictions, agencies, surrounding Native American Tribes, extensive internal review, and Ecology review. The City notes that some information regarding streams and/or fish use may have been updated consistent with new information since 2007. Likewise, new information and studies regarding fish ecology in lake environments and other pertinent subjects may be available.*

Comments will be addressed during the next comprehensive update of the City's SMP.

7B - Shoreline Master Program: The Muckleshoot Tribe would like to review all shoreline applications.

7B - City response: *Current review procedures include the Muckleshoot Tribe on shoreline and other application notices.*

7C – New policy: A new policy stated in the beginning of the SMP should read as follows: Nothing in the Sammamish Shoreline Master Program or action taken there under shall affect any treaty right to which the United States is a party.

7C - City response: *Comment noted. The goals and policies of the SMP are generally consistent with the suggested new policy.*

7D – Recommendations: The Muckleshoot Tribe recommends the following:

- **(Lighting)** The SMP should be modified to include requirements that dock and pier lighting do not shine on the surface of Lake Sammamish.
- **(Vegetated enhancement area)** The Muckleshoot Tribe is concerned that the SMP does not necessarily require a vegetated enhancement area. Numerous exceptions are noted. This may be an improvement over existing conditions in some areas; however, it is unlikely that such an approach will result in any substantial restoration of the Lake Sammamish shoreline within the City of Sammamish. The vegetated enhancement area should review additional vegetation and fewer encroachments.
- **(Water Quality)** The Water Quality, Stormwater, and Nonpoint Pollution Regulations should also require the use of low impact development techniques where site conditions allow.
- **(Dock Width)** The proposed maximum width for a private dock of up to 50% of the lot size in all shoreline designations seems too wide. The maximum width for piers and floats per the US Army Corps of Engineers requirements under RGP-3 is 6 feet. Floats in Lake Sammamish should be limited in width to 6 feet consistent with the US Army Corps of Engineers requirements under RGP-3.
- **(Transportation)** The transportation regulations should be modified to require that modified roads, trails, sidewalks, and driveways to minimize impacts to surface waters and replace existing fish passage barriers.
- **(Utilities)** The utilities regulations should be modified by requiring that boring is the preferred method of crossing water bodies over trenching. The utilities regulations should be modified to require utilities to fully mitigate for unavoidable impacts to shorelines, rivers, streams, lakes, wetlands, etc.

7D - City response:

- **(Lighting)** *The SMP includes a standard that specifies exterior lighting shall not shine directly onto the water. Exterior lighting fixtures shall include full cut off devices (light shields) such that*

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glare or direct illumination onto the lake is minimized. This provision is part of the General Shoreline Regulations (25.06.020(4)) and would apply to lighting on docks and piers.

- **(Vegetated enhancement area)** *This comment is focused on Environmental Protection and Conservation Regulations within the SMP (25.06.020). Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58. Shoreline setback and vegetation enhancement area standards were developed to meet this balance.*

The majority of the Lake Sammamish shoreline in the City is developed with single family residential uses at urban densities; in these areas, narrow existing shoreline setbacks are common, as is shoreline modification. Given existing urban conditions along the shoreline, incentivizing beneficial restoration actions (bulkhead removal, restoration and/or maintenance of natural shoreline conditions, shoreline vegetation enhancement) allows the City to establish a wider baseline setback and require beneficial enhancement and restoration of functions when a narrower setback is desired or required due to site constraints. See the Cumulative Impact Analysis for additional discussion of Lake Sammamish shoreline setback approach.

- **(Water Quality)** *Sammamish has worked to achieve a balance between protection of ecological functions and shoreline uses. In order to develop consistent regulations throughout the City wherever feasible, the SMP's approach to addressing water quality, stormwater, and nonpoint pollution regulations is largely consistent with the City-wide adopted approach. On highly developed shorelines in developed basins, like the Lake Sammamish shoreline and the East Lake Sammamish Basin, actions outside of shoreline jurisdiction can have as much or potentially greater impacts on shoreline functions than buffer width and wide buffers may not be that advantageous in terms of maintaining habitat and especially water quality. This suggests that a City-wide approach is appropriate.*

The City has adopted incentive based Low Impact Development standards (SMC 21A.85). The LID standards are applied to all City projects and incentives are established for private development projects that incorporate LID. The City also requires use of King County Surface Water Management (KCSWDM) standards for all projects. The City is currently in the process of adopting stormwater provisions that meet equivalency to the Department of Ecology Stormwater Management Manual for Western Washington.

As added provisions encouraging minimization of water quality and stormwater impacts, the SMP incentives reduced impervious surface coverage along the Lake Sammamish shoreline (25.06.020(9 and 10). For Pine and Beaver Lakes, the SMP requires 80% tree retention throughout the shoreline jurisdiction, and implementation of stringent water quality standards developed for the lake management areas, including removal of 80% of total phosphorus. These measures are consistent with recommendations for the lakes' respective water quality studies and the regulations are found in lake management areas – Special district overlay (SMC 21A.50.355).

- **(Dock Width)** *This comment is focused on private residential dock width standards within the SMP (Table 3). Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58. Residential dock dimension standards were developed to meet this balance.*

Although in many instances a 50% of lot width standard for residential docks is far wider than necessary for development of an appropriate dock, the standard was applied with recognition of the Corps and WDFW review that is required for any new or expanded dock (as in-water work). Corps RGP 3 expired in March 2010 and has not been reissued. Dimensional and

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design requirements including mitigation elements for construction of new docks on Lake Sammamish are still reviewed by the Corps. The SMP recognizes this, and relies on continued state and federal review and approval of all new dock projects as additional protection.

Ecology decision reference: (pier/dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

- **(Transportation)** *Sammamish has worked to achieve a balance between shoreline uses and the protection of the public interest as required by RCW 90.58. Transportation use standards were developed to meet this balance. Existing transportation standards included in the SMP apply to ‘new transportation facilities’ and ‘new roads’; these provisions would apply to expanded transportation facilities, including expanded roads. Work creating new impervious surfaces would be required to meet the stormwater and water quality standards applicable throughout the city, and any applicable provisions of the lake management areas-special district overlay (21A.50.355).*

Transportation projects with direct or indirect impacts to surface waters would require additional review, both through city regulations (critical areas and stormwater regulations) and state (WDFW, Ecology) and federal (Corps and ESA consistency) regulatory programs.

- **(Utilities):** *Sammamish has worked to achieve a balance between shoreline uses and the protection of the public interest as required by RCW 90.58. Utility standards were developed to meet this balance. Utility standards included in the SMP were developed to require consideration of alternative siting, project design, and use of existing right-of-ways. Utility projects with direct impacts to surface waters or other habitats would require additional review, both through city regulations (SMC 21A.50 and SMC 15.05) and state (WDFW, Ecology) and federal (Corps and ESA consistency) regulatory programs.*

7E - Cumulative Impacts Analysis: The Muckleshoot Tribe states that the proposed Sammamish Landing public park in the north end of Lake Sammamish needs to be developed consistent with the recommendations from the WRIA 8 Chinook recovery plan and all impacts fully mitigated. The use of low impact development techniques should be fully implemented where site conditions allows.

The Muckleshoot Tribe is concerned that the text regarding the Shoreline buffer on Lake Sammamish is misleading. The 45 foot shoreline setback is not a buffer as the SMP lacks any requirement to fully vegetate these areas with native vegetation.

7E - City response: *Comments regarding the Cumulative Impact Analysis are appreciated and noted. Development at Lake Sammamish Landing would be completed consistent with the adopted SMP. Planning for park developments are underway, including establishment of a preferred alternative site plan during the Master Planning Process. The conceptual plan includes enhanced shoreline access as well as consideration of shoreline conditions. Shoreline restoration is noted in the plan, and associated park facilities (including parking facilities) are located as far from the shoreline as is feasible.*

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The Cumulative Impact Analysis addresses potential impacts associated with parks development in section 5.2.1 (page 30).

Discussion of Lake Sammamish shoreline setback and vegetation enhancement provisions within the Cumulative Impact Analysis do not refer to the SMP setback as a buffer. The term buffer is only used in this area to refer to the lake buffer that was established by the City's critical areas regulations (21A.50). The SMP uses an incentive approach to encourage restoration of the shoreline and establishment of a vegetation enhancement area as a means to reduce the standard shoreline setback.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology's findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology's decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology's Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City's supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

7F - Restoration Plan: On pages 46-47 of the restoration plan, there should be a definitive plan and timeframe to fix the fish passage barriers identified in Table 6. The repair of one identified culvert from the 1994 East Lake Sammamish Basin Plan in the last 15 years is too slow.

7F - City response *Comments regarding the Restoration Plan are appreciated and noted. The comment recommending incorporation of LID techniques into the SMP is noted; LID techniques and other provisions to minimize water quality and stormwater impacts are addressed in response to a similar comment from the Muckleshoot Tribe pertaining to the SMP (above).*

The Restoration Plan identifies opportunities to restore fish passage on pages 46 and 47; however establishing a definitive plan and timeframe to implement restoration projects is not possible in the Restoration Planning context. Timelines and benchmarks for restoration implementation are discussed in section 6.5 of the Restoration Plan (page 55).

(Comment 8) Scott Moore, King County Noxious Weed Control Board, written comment received during the public comment period: The King County Noxious Weed Control Board (KCNWCB) is responsible for reducing the negative impacts of noxious weeds on all shorelines in the county. All landowners are required to control regulated noxious weeds on their property. KCNWCB states that the SMP needs to differentiate between regulated and non-regulated noxious weeds. KCNWCB recommends that the SMP not restrict noxious weed removal methods to hand labor and/or light equipment, but rather rely on KCNWCB Best Management Practices. The KCNWCB

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recommends that the SMP requirement for an approved restoration or enhancement plan should be waived for the removal of regulated noxious weeds. KCNWCB also recommends that for non-regulated invasive plant infestations below a certain threshold in area, the City should not require a restoration plan and should allow property owners to follow KCNWCB best management practices rather than restrict removal methods.

8 - City response: *The City-adopted SMP allows for aquatic and noxious weed control if native plant communities or water dependent uses are threatened as long as controls conform to local, state and/or federal regulations (25.06.020(2)). Clearing and grading necessary for landscaping and the establishment of a vegetation enhancement area is also allowed (25.06.020(3)). Consistent with the existing SMC 21A.50 Critical Area Ordinance, the City-adopted SMP restricts noxious weed removal methods to hand labor and/or light equipment and requires an approved restoration or enhancement plan within critical areas such as stream or wetland buffers (25.06.020(8)(d)).*

Sammamish recommends that property owners use best management practices for noxious weed removal and provides information assisting the landowners as needed.

(Comment 9A -) Rory Crispin, written comment received during the public comment period.

9A – Docks: Mr. Crispin states that Ecology comments regarding docks are subjective and display a misunderstanding of the regulatory process.

Crispin states that Ecology claims that the Sammamish standards allow much larger new piers and docks than other established standards and that the standards do not contain mitigation to offset the impacts. Crispin states that these statements are false. The dock dimensional standards, i.e. side setbacks, square footage, length, etc., are the same as the King County SMP standards which have been in effect for 40 years. Additionally, docks must be constructed using WDFW approved materials and decking. For Lake Sammamish, docks must be permitted by the Army Corps of Engineers. An Army Corps permit is not issued without appropriate mitigation measures to offset the overwater structure impact. Crispin believes the Corps review to be consistent with the no net loss threshold.

What Ecology characterized as "established standards" were discussed at length during the City review process. Crispin also states that concerns regarding duplicating federal permitting agency requirements was discussed during the City process.

Crispin suggests modifying SMP 25.07.050(2) to add: "New dock or lift must comply with Army Corps regulations."

9A - City response: *The existing King County SMP limits the total surface area of residential piers to 600 square feet of overwater coverage per residence (25.16.140(E)). The RGP-3 standards of the Army Corps of Engineers allow for expedited review of docks that have 480 square feet of overwater coverage or less. Additional square footage from the Corps may be permitted under certain circumstances. The City-approved SMP restricts the size of docks serving one lot to 600 square feet (25.07.050(2) & (3)).*

As noted by Mr. Crispin, Sammamish chose to limit duplication of existing agency requirements within the SMP in order to avoid possible regulation overlap and inconsistency.

Ecology decision reference: (Pier/Dock) Ecology has listed both "required" (Attachment B) and "suggested" (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the "Shoreline Modification" section. In general, Ecology's changes are based on

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regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

9B - Preserve Designation: Crispin suggests that all private property be returned to the Shoreline Residential designation and all park land be designated Urban Conservancy. Crispin states that these designations would be consistent with RCW 90.58.020 and WAC 173-26-221. Crispin states that the Beaver Lake Preserve is within the State's Urban Growth Boundary, bounded by shoreline residential designated property, and is consistent with the open space character of the Urban Conservancy designation therefore should be designated Urban Conservancy rather than Natural.

9B - City response: *The shorelines of Sammamish do not include any areas of commercial development and, as Mr. Crispin states, are all within the Urban Growth Boundary. The use of three shoreline designations: Natural, Urban Conservancy, and Shoreline Residential was discussed by the Sammamish Planning Commission on April 17, 2008. After further review, Sammamish determined that protection of the shoreline could be achieved with two designations: Urban Conservancy Environment (UC) and Shoreline Residential Environment (SR).*

A combination of site and reach characteristics was used to determine which parcels should be designated UC or SR. The City-adopted SMP designates the City-owned Beaver Lake Preserve as UC (Shoreline Designation Map 4). The purpose of UC is to “protect and restore relatively undeveloped or unaltered shorelines” while allowing “substantial numbers of people to enjoy the shoreline” (25.02.020(1)(b)). The area within 200 feet of the lake on the Preserve property originally contained a residence and a second structure along with a pump house on the lake which currently remains. A large area of open space is present where the original residential development and structures were located. Covenants on the property prevent its use for anything other than passive recreation and require that it be preserved in essentially its current state. This designation ensures that adequate public access to Beaver Lake is available to Sammamish residents, while it protects the ecological functions of the Preserve.

Sammamish believes it is appropriate to base environmental designation decisions on factors such as existing use and biological character.

Ecology decision reference (Shoreline Environment Designations) Ecology has provided analysis and a finding related to the City's designation of shoreline environments. Ecology provided comments throughout the update process recommending a number of specific recommendations to the City's related to their proposed environment designations. However, as provided in the Findings & Conclusion (Attachment A) Ecology has determined that the City provided a adequate basis to support their adopted environment designations consistent with applicable sections of the SMP-Guidelines.

9C - CAO Sunset Clause: Crispin states that the issue of the City having a sunset clause within the critical area code, or updating its critical area code itself, is outside the purview of the SMA consistency review, since the draft program already complies with the policies and provisions of RCW 90.58.090(4) as required by RCW 90.58.050.

9C - City response: *Sammamish has incorporated by reference SMC Critical Areas Ordinance 21A.50, as amended by O2009-264. The ordinance is included in the Related Documents folder of the submitted SMP. RCW 90.58.090(4) charges the Department of Ecology (ECY) with*

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determining whether the master program is consistent with RCW 90.58.020 and applicable shoreline guidelines, and provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2). This has been accomplished through the incorporation of the CAO's protections into the SMP.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City's Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City's existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City's CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City's existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to "Reasonable Use" and the "Sunset Provision" in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City's SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

9D - Liberal Construction: Crispin suggests that a liberal construction clause in the SMP misapplies a state statute and is not needed.

9D City response: *Comment noted.*

(Comment 10) Linda Eastlick, written comment received during the public comment period: As demonstrated by the Pine Lake study, water quality has been improving in the past 10 years, or so, under the existing regulations. From this, it is concluded that under the current regulations Pine Lake, at least, is experiencing a net gain in ecological function.

The proposed SMP has a more stringent tree retention policy than the existing policy. Eastlick states that the City of Sammamish has followed the guidelines outlined in WAC 173-26-221(5)(b) for achieving no-net loss of ecological functions through the use of vegetation management provisions. Mandating additional vegetation areas is not necessary to achieve the desired results, those results are already being achieved under current conditions.

Where regulations are considered, they should focus on basin-wide approaches involving the broader citizenry. Eastlick states that the pollutants and nutrients washing in to our lakes are, more often, coming from properties outside the shoreline jurisdiction.

Not included in the proposed SMP regulations is the ability to clear the area along the shoreline of detritus.

If a restoration plan is to be required for removal of noxious weeds, it would be appropriate to apply a de minimis standard below which a restoration plan will not be required.

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10 - City response: *Sammamish has included the referenced study, Management of Pine Lake Water Quality, in the Related Documents folder of the ECY SMP submittal. The study found that the water quality of Pine Lake has improved since 1988.*

On Pine and Beaver Lakes 80% tree retention within shoreline jurisdiction is required and tree retention on Lake Sammamish is consistent with the rest of the Sammamish (25.06.020(11)). New development and uses within the shoreline setback are restricted, while incentives for vegetation and reduced impervious surfaces are provided (25.06.020(3, 9 & 10)).

Areas outside of shoreline jurisdiction are not within the direct jurisdiction of the SMP. Sammamish requires projects needing drainage review to meet the core requirements contained in the 1998 King County Surface Water Design Manual and directs ongoing water quality compliance through the use of the best management practices contained in the 1998 King County Stormwater Pollution Prevention Manual (SMC 15.05.010). Additionally, the City is in the process of adopting stormwater provisions that meet equivalency to the Department of Ecology Stormwater Management Manual for Western Washington. Sammamish also uses incentives to encourage incorporation of LID planning and design approaches into project development. Pine and Beaver Lakes require use of the AKART phosphorus standard for new development. For citywide practices regarding phosphorus control, please see Comment 4.

Maintenance of landscaping along the shoreline is not restricted by the City-adopted SMP.

Noxious and aquatic weed control is allowed when native plants and associated habitats are threatened or when they threaten a water dependent use (25.06.020(2)). Restoration plans are required for weed removal within Critical Areas, consistent with current Sammamish practice (25.06.020(8)(d)). Please see Comment 8 for additional information about clearing weeds.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 11) Dwight K. Martin, written comment received during the public comment period: Martin supports the City of Sammamish SMP as submitted to Ecology and requests that it be approved as written.

Many structures will be made nonconforming by this SMP. The 200 square foot one time addition exemption is important and should not be reduced or removed. Mitigation should not be required for this small allowance.

The 200 square foot allowance was part of the greater discussion in our community and was factored in to the Program requirement of “no net loss.”

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Martin quotes two passages from the Cumulative Impact Analysis that support the idea that the SMP will achieve no net loss of ecological function.

New development brings with it an opportunity for environmental improvement. This includes encouraging people to plant vegetation near the shore edge, removing invasive species, improving the storm drainage system, improved decking for docks, the construction of piers to moor boats, and the replacement of old septic systems. The new SMP nearly outlaws concrete bulkheads.

11 - City response: *The City-adopted SMP includes a 50 foot setback (45 foot shoreline setback and 5 foot building setback) from the OHWM on all the lakes. On Lake Sammamish, the setback from the OHWM can be reduced to 20 feet (15 foot shoreline setback and 5 foot building setback) through with the use of a variety of mitigation incentives (25.06.020(7) and Table 1). Legally established homes that are non-conforming to the City-adopted SMP are allowed to remain and may be reconstructed, replaced, or expanded as long as the changes do not increase the non-conformity (25.08.100(1)). In addition, one time footprint expansions of 1,000 square feet are allowed behind the structure with the establishment of a 15 foot vegetation enhancement area. A small, one time expansion of 200 square feet is allowed for legally established non-conforming houses (25.06.020(8) & 25.02.060(10)(a)).*

Ecology decision: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 12) George Toskey, Sammamish Homeowners, written comment received during the public comment period: Toskey summarized the Sammamish Homeowners (SHO) involvement in the SMP development. Toskey states that SHO provided notice to shoreline property owners, held meetings, and created a draft SMP. Toskey believes that the SMP exceeds the state guidelines and has received more than adequate public comment.

Toskey addressed two comments made by Ecology in its presentation on October 7, 2010. First Toskey identifies mitigation priorities described for setback reductions described in section

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25.06.020(1), Table 1 within the SMP. The letter explains that the reductions do not have to be used in priority order. Landowners can choose which reductions to use.

Toskey states that the only way to avoid mitigation is to build 50 feet back of the OHWM. This is 15 feet more than the setback with no mitigation requirement in the Redmond SMP, already approved by the Department of Ecology. Toskey cites two sections in the SMP supporting the idea that the Sammamish SMP prohibits the removal of significant amounts of vegetation.

City response: *Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.*

All of the setback reduction mitigation methods described in 25.06.020(10) Table 1 benefit Lake Sammamish. The methods are prioritized by the amount of setback reduction they provide. Therefore, the methods do not require a priority order to be effective.

The Redmond SMP, approved by ECY as noted above, includes a Lake Sammamish setback of 35 feet from the OHWM. This setback can be reduced to 20 feet with planting of primarily native vegetation (20D.150.60-020). The Sammamish City-adopted SMP provides a variety of methods for reducing the 50 foot setback on Lake Sammamish to a minimum of 20 feet (25.06.020(10)). The 50 foot setback on Pine and Beaver Lakes may not be reduced.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 13) Mike Collins, written comment received during the public comment period: To balance use and the environment the letter recommends buy property - not lawsuits, setup real variances for fees that go to purchase key lands, and use the legislature rather than courts. Non-regulatory measures should include rainwater harvesting. Larger setbacks conflict with urban areas. Equal protection and proportional responsibility is expected by the citizens. The review process is

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broken.

City response: *Please see response to Comment 1J regarding rainwater harvesting.*

The City-adopted SMP includes a 50 foot setback on Lake Sammamish which can be reduced to a minimum of 20 feet through a variety of mitigation methods (25.06.020(10)). The 50 foot setback on Pine and Beaver Lakes may not be reduced. To protect shoreline ecological function and achieve no net loss, the City-approved SMP setback requirements are based on consideration of the Best Available Science for buffers and the existing urban conditions of the Sammamish shorelines.

Sammamish has worked to include citizens in the process of the SMP update. The first public participation goal of the Sammamish Public Participation plan is “be transparent and inclusive” (Folder 7, Public Participation Summary). Throughout the process individual and Interest groups were contacted and updated through mailings, email alerts, and a webpage. The process included open houses, Planning Commission and City Council meetings, and a variety of meetings with individual citizens and groups. Summaries of the 4 year Public Participation process can be found in Folder 7 of the SMP submittal to ECY.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 14) Reid Brockway, written comment received during the public comment period:
The adopted SMP is a balanced and viable approach.

The definition of "development" is overly broad because it includes "exterior alterations."
There is no threshold for vegetation removal. Thus a restoration plan may be required in some circumstances when any vegetation is removed.

Docks are unfairly restricted in subdivisions.

Shoreline setbacks should be drawn around the footprints of houses that would otherwise be within a shoreline setback.

The liberal construction clause is problematic. This clause opens the door to significant misapplication of the code based on a permit reviewer's personal agenda or that of his department. The SMP has been carefully written protecting both the developer and the environment. The liberal construction clause defeats this effort.

The SMP should have a provision for an ombudsman.

City response: *For a response to many of these concerns, please see Comment 1Q.*

Alternative setback provisions were considered by the planning commission and council including the option of a setback that excluded the footprint of legally constructed houses. Methods currently used in neighboring jurisdictions were discussed. Concerns over implementation and fairness for all lakeshore owners resulted in the setback regulations found in the City-adopted SMP.

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The Liberal Construction clause of the SMP comes from the RCW 90.58.900.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Comment 15) Erica Tiliacos, Friends of Pine Lake, written comment received during the public comment period: Tiliacos observed that Ecology's presentation and clarification of "no net loss" has been helpful.

Tiliacos is concerned that the SMP does not propose buffers. Tiliacos finds the insistence of setbacks in the SMP to be troubling. Tiliacos is concerned that the only easy to achieve no net loss is to have previous development restore some degraded areas. Tiliacos is concerned about the sunset clause in the Critical Areas Ordinance (CAO). Considerable effort and scientific review went into the CAO. Tiliacos believes that the CAO should stand with the elimination of the sunset clause.

Tiliacos states that the Beaver Lake Preserve should be designated Natural.

Tiliacos states that Ecology's concern regarding public access can be addressed through public parks on all of the lakes.

The letter expresses concern that the SMP would allow more docks on Lake Sammamish than the previous SMP.

Mechanisms should be built into the SMP to encourage conservation along the shore of Lake Sammamish. Transferring development rights from the immediate shore area to the area immediately east of Lake Sammamish Parkway was suggested.

City response: *For additional responses to many of these concerns, please see Comment 1C.*

During discussions regarding vegetation conservation, Sammamish determined that a name differentiation (buffer, setback, vegetation enhancement area) was less important than adoption of methods that would achieve a positive outcome for the lakes.

Any changes to SMC 21A.50 affecting shorelines will need to be reviewed and approved by ECY in order for the changes to apply within shoreline jurisdiction. The extensive documentation related to lake shorelines that forms part of the record for the CAO has been included as part of the ECY

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SMP submittal (Folder 5-Related Documents, CAO Best Available Science).

A combination of site and reach character was used to determine which parcels were designated SR or UC. The City-adopted SMP designates the Beaver Lake Preserve as UC (Shoreline Designation Map 4). This purpose of UC is to “protect and restore relatively undeveloped or unaltered shorelines” while allowing “substantial numbers of people to enjoy the shoreline” (25.02.020(1)(b)). The area within 200 feet of the lake on the Preserve property originally contained a residence and a second structure along with a pump house on the lake which currently remains. A large area of open space is present where the original residential development and structures were located. Covenants on the property prevent its use for anything other than passive recreation and require that it be preserved in essentially its current state. This designation ensures that adequate public access to Beaver Lake is available to Sammamish residents, and protects the ecological functions of the Preserve.

Sammamish is committed to meeting the shoreline public access needs of its residents. Public access is currently available on all three SMP regulated lakes. The City believes the Public Access Plan provides adequate public access to all citizens and that the limited subdivision potential along the lakes would lead to little, if any, provision of additional public access through redevelopment. The CIA addresses development potential on all of the lakes (See pages 41, and 46-47). The location of parcels that are large enough to be subdivided into more than four lots is limited to Pine and Beaver Lakes. Beaver Lake has 11 vacant parcels that could be subdivided based on width and size. Five of these are public parks or preserves, and the remaining parcels are constrained by critical areas that reduce the potential lot yield to four or fewer or have limitations from prior platting or conservation easements. Of the 13 parcels on Pine Lake, one is Pine Lake Park, one is a private open space tract, and one is just over the amount needed for four lots. There is one parcel that could create more than 10 lots and that parcel is 400 feet from Pine Lake Park. Provisions for increased access are included in the Public Access Summary found in Folder 5-Related Documents of the ECY SMP submittal.

Spacing minimums of 200 feet for docks in UC was eliminated because the requirement does not significantly protect the environment. Under the City-adopted SMP, effective overwater coverage by docks on Lake Sammamish is expected to decrease over time because new and replacement docks will be built with light penetrating materials (CIA 5.2.1, p 42).

Sammamish is currently working on Transfer of Development Rights provisions that will apply to the whole city and these could potentially be used along Lake Sammamish in the future.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on

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these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

(Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

(Comment 16) Chas Dreyfus, Barbara Bruell, Jason Hanson, Katherine Low, written comments received during the public comment period: Mr. Dreyfus, Ms. Bruell, Mr. Hanson, and Ms. Low provided nearly identical comments. The proposed Sammamish SMP should be improved in the following ways:

- **(Buffers)** Establish science-based buffers
- **(Enhancement)** In the areas that are already degraded with development, require enhancement with new development and redevelopment.
- **(Armoring and docks)** Stop armoring the shoreline and include ways to replace armored shorelines with softer methods. Slow the proliferation of docks.

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- **(Incentives)** Make sure the incentives for reducing setbacks and buffers require actual enhancement, and reduce the amount of intrusions allowed in setbacks or buffers.
- **(Density and septic systems)** Stop approving new dense urban development on septic systems near shoreline waters.

City response: *For additional response regarding buffers and overwater coverage, please see Comment 15.*

- **(Buffers)** *The City-adopted SMP provides protection to lake shorelines by requiring a structure setback of 50 feet (shoreline setback of 45 feet and a building setback of 5 feet) and by restricting new development and uses within this setback. Building closer to the OHWM is not allowed on Pine and Beaver Lakes and requires implementing mitigation options on Lake Sammamish. Tree retention of 80% is required within the shoreline jurisdiction of Pine and Beaver Lakes and vegetative enhancement adjacent to the OHWM is encouraged (25.06.020). These provisions are in line with the best available science recommendations of the Management of Pine Lake Water Quality study.*
- **(Enhancement)** *All new development and redevelopment on the lakes must meet the standards of the City-adopted SMP. These standards restrict activities that would cause adverse impacts to the shoreline environment, encourage other LID strategies, and offer appropriate restoration options and incentives within shoreline jurisdiction and the shoreline setback (CIA 7.0, p 57).*
- **(Armoring and Docks)** *The City-adopted SMP requires that new residential development and normal appurtenances are located where they won't require new structural shoreline stabilization. When new shoreline stabilization is required to protect an existing residence, it must be mitigated by establishing and maintaining a required vegetation enhancement area landward and adjacent to the OHWM (25.07.070(1)(a)). Bulkheads that are not necessary for protection of a residence must be replaced with bulkhead alternatives or bio-stabilization (soft stabilization) (25.07.070(6)).*

Sammamish does not anticipate large numbers of new docks on any of the lakes since most parcels already have docks (CIA 5.2.1 & .2, p 42 & 46). Parcels that are subdivided will be limited to an additional joint use dock in order to ensure the no net loss standard is met (25.07.080(6)). Under the City-adopted SMP, effective overwater coverage by docks on Lake Sammamish will decrease over time because new and replacement docks will be built with light penetrating materials). WDFW approved methods and materials, as specified by WAC 220-110-060, are also required for Pine and Beaver Lakes (25.07.050(1)(g)).

- **(Incentives)** *Setback reduction is not available for Pine and Beaver Lakes. On Lake Sammamish the setback may be reduced if specific criteria are met. The system of setback reduction and required compensatory restoration measures are consistent with previously established critical areas standards and maintain the ecological protections currently provided by Critical Areas regulations (CIA 4.2.2, p22).*
- **(Density and septic systems)** *Within shoreline jurisdiction, the City-adopted SMP requires newly created parcels to have a minimum size of 12,500 square feet and a minimum width of 50 feet at or near the OHWM and (25.07.080(6)). These requirements protect the shoreline while maintaining density levels consistent with the city's comprehensive plan. All new septic systems must meet the King County Department of Health standards including siting requirements (CIA 4.2, p 20).*

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Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

(Comment 17) Kathy Richardson, written comment received during the public comment period: Richardson quotes a Department of Ecology press release characterizing the Sammamish SMP as “a landmark effort that will significantly increase protection and restoration of Lake Sammamish, Pine Lake, and Beaver Lake”. Richardson states that:

- The letter states that Setbacks and vegetation management provision proposed in the SMP are adequate to achieve no net loss of ecological function.
- The SMP makes adequate provision of public access.
- Proposed pier standards adequately protect the ecological function of the lakes.

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City response: *Please see comment 1-L for responses to Ms. Richardson's concerns.*

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 18) C.J. Kahler, written comment received during the public comment period: Kahler states that the SMP submitted by Sammamish should be approved by Ecology as submitted.

Kahler focuses on the vegetation management provisions in the SMP. Kahler states that the vegetation conservation provisions are adequate to achieve no net loss of ecological function. Kahler cites several documents as support for the position that the vegetation conservation provisions in the SMP are adequate for Pine Lake and that additional vegetation enhancement or preservation requirements have not been demonstrated to be effective. Kahler cites several court decisions in support of the idea that there are significant constitutional and statutory protections for the right to use private property. Kahler is concerned that application of a vegetation enhancement area in Pine Lake would cause hardship for almost one-third of the homeowners on the lake.

18 - City response: *Comments noted. Please see comment 1-O and Comment 19 for responses to Mr. Kahler's specific concerns. [Please see Ecology decision reference under the City's earlier responses as listed].*

(Comment 19A -Y) Dean Patterson (Futurewise), Heather Trim (People For Puget Sound), and Tristin Brown (Sierra Club), referred to here as Futurewise et. al., written comment received during the public comment period:

19A - Necessary Goals: Futurewise et. al. state that a new goal and an edited goal are needed in Section 25.03.020 to direct the use and administration of the SMP document to implement the SMA Policy. The new goal should be added before goal (8), and goal (8) should be edited as follows:

New Goal (based on second paragraph of SMA Policy): "Consistent with the policies of 90.58.020, plan for and manage the shorelines within the City of Sammamish to promote and enhance the public interest, and protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto."

Goal (8): Achieve no net loss of ecological functions of Sammamish shorelines by minimizing damage from development using mitigation sequencing.

Futurewise et. al. states that while the no-net-loss of ecological functions language is stated in many places of the SMP, there is no requirement to use mitigation sequencing. There is a similar standard found in the CAO in Section 21A.50.135, but that only applies to specific critical areas, and not to all of shoreline jurisdiction. Futurewise et. al. state that a mitigation sequencing standard consistent with the SMP Guidelines is needed that applies to all of shoreline jurisdiction.

19A - City response: *The City considered RCW 90.58.020 and State Guidelines in developing SMP Goals (25.03). The SMP addresses the intent of RCW 90.58.020 and the New Goal suggested by Futurewise in several existing goals, including:*

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- 25.03.020 (Conservation Goals 1 – 7) – Each of these existing goals provide policy and guidance for how to implement the intent of RCW 90.58.020.
- 25.03.030 (1) (Public Access Goals - Provide opportunities for physical and visual public access to public shorelines when such access can be reasonably accommodated without human health, safety, and/or security risks, while minimizing adverse effects on shoreline functions and processes, private property rights, and/or neighboring uses);
- 25.03.050(2) (Shoreline Use Goals - Ensure that shoreline use patterns are compatible with the ecological functions and values, and with the surrounding land use, and that they minimize disruption of these functions and values);
- 25.030.60 (1 – 4) – All Shoreline Restoration and Enhancement Goals provide policy and guidance aimed at implementing the intent of RCW 90.58.020.

Existing goals within SMP Chapter 25.03 address the intent of RCW 90.58.020; incorporation of the New Goal recommended by Futurewise would largely duplicate the existing goals (as a broad, less directed statement).

The governing principles of the SMP (25.01.050) state that ‘protecting the shoreline environment is an essential statewide policy goal’, and establishes that the SMP must include ‘policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions in a manner that is consistent with RCW 90.58 and WAC 173-26-201(2)(e)(i)’. While the RCW 90.58 reference is broad, the WAC reference included in this section directly indicates state guidelines for mitigation sequencing. The SMP implements mitigation sequencing through a variety of approaches, including inclusion of mitigation sequencing requirements detailed in incorporated Critical Areas Regulations (SMC 21A.50.135 Avoiding impacts to critical areas). While the proposed revision to 25.03.020(8) would not be inconsistent with the SMP, specifying the use of mitigation sequencing in this specific location is not necessary to ensure use of mitigation approaches consistent with State Guidelines.

Ecology decision reference: Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

19B - Mitigation Sequencing; Futurewise et. al. is concerned that the Sammamish SMP fails to accomplish mitigation sequencing and no-net-loss of ecological function on the most basic levels:

- Only two environments are used to designate the wide range of shoreline conditions present.
- The environment use and modification limits tables are nearly identical for both environments, so that they essentially function as one environment.
- Almost no uses are prohibited in either environment.
- The wide range of vegetation condition is treated the same with minimal vegetation requirements, even where existing vegetation is intact, and where shorelines are undeveloped.
- With limited exceptions, minimal development standards are required for different development types.

Futurewise et. al. is concerned that mitigation sequencing needs to be built into transportation development standards or utility development standards. FP&S is concerned that the absence of a

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clear requirement for mitigation sequencing transportation and/or utility facilities will unnecessarily impact shorelines.

Futurewise et. al. is concerned that mitigation sequencing is not built into the SMP development regulations.

19B - City response: *The above comments from Futurewise reiterate statements made throughout their comment letter. The City considered State Guidelines for mitigation sequencing and no-net-loss of ecological function throughout development of the SMP. Review of existing conditions during the Inventory and Characterization effort revealed a generally consistent pattern of existing ecological function and shoreline use/cover on each of the three lakes. This pattern is detailed in the Inventory and Characterization Report and the Cumulative Impact Analysis and is reflected in the Shoreline Environmental Designations established for the lake shorelines.*

The City concluded that the number and type of designations identified in the SMP were appropriate considering the uniformity of the existing and anticipated land uses within shoreline jurisdiction. The types of uses that some jurisdictions might prohibit because of potential impacts on shoreline functions are highly unlikely to occur on Sammamish lake shorelines because of the historic land use pattern, zoning standards and comprehensive plan designations. Given the existing and anticipated use pattern, the City's standards for allowed uses and modifications, which are tailored to the specific and limited range of anticipated uses, are justified.

Ecology decision reference (Mitigation Sequencing) Ecology has required multiple changes the City's SMP related to Mitigation Sequencing. Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

19C - Shoreline Reach Characterization and Implications for SMP and Future Development:

Futurewise et al. is also concerned that the inventory and assessment of shore lengths is done for only three shore "reaches," simply corresponding to each lake. These are very long reaches to use in characterizing the cities shorelines, and they are not capable of characterizing the variation in function or level of ecological function. Futurewise et al. is also concerned about the limited assessment of subdivision potential. Particularly on Pine and Beaver Lakes, there are many lots with development potential that are over a half acre or even several acres in size. "Neither the Inventory nor the Cumulative Impacts Analysis fully considers the intensification of residential use that is possible, particularly on lots with houses set well back from the water, where new subdivided lots will result in the new development very close to the water using the very small buffers currently proposed" (Futurewise et al., pg. 5).

19C - City Response: *Sammamish's SMP Update effort successfully catalogued shoreline conditions; existing conditions and functions were used to inform development of the SMP resulting in a fair and consistent approach for balancing property rights and protection of the environment and public interest. The Futurewise comments suggest that the City's approach to assessing each of the lake shorelines did not accurately characterize variations in ecological functions / existing conditions at an appropriate scale. The City's I&C Report describes each shoreline independently, noting specific conditions and uses along the shorelines where appropriate, as shown in this example:*

A relatively undisturbed stretch of shoreline is located along the northeastern section of the lake near Inglewood Hill Road, the areas north and south of Weber Point, and extending north to the large wetlands of Marymoor Park. Along this stretch, neighborhoods are interspersed among sandy/gravelly beaches that provide salmon and eagle habitat. Much

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of the shoreline contains mature forest that provides important habitat for nesting and foraging eagles. Foraging is likely to occur throughout the entire shoreline of Lake Sammamish due to the abundance of fish and waterfowl. (Excerpt from the I& C Report, p. 32-33).

This information was carried forward and in many cases further refined during development of the SMP policies and regulations as the Planning Commission and later the City Council requested additional information on shoreline conditions. Variations in existing ecological function / land cover and planned uses were discussed during public open houses and other public meetings. The Planning Commission and City Council balanced considerations related to the relatively narrow range of ecological variability with the relatively uniform land use pattern when deciding on environment designations and other SMP standards.

The issue of subdivision potential and intensification of use was one of the main topics of discussion with the Planning Commission and City Council and Staff provided a detailed assessment of the number of lots where subdivision could occur. The Council concurred with Staff's opinion that on large lots with houses set back from the shore (a common situation on Pine and Beaver Lakes) creation of new lots would likely affect the back (landward) portion of the lots—not on the portion closest to the shore as Futurewise suggests. In any case, new development would need to meet the combined setback requirements of 50 ft and the minimum lot size standard of 12,500 SF. Additionally, specifically in response to this concern, the Council required the minimum lot width to be met at the Ordinary High Water Mark. The Council concluded that these provisions would safeguard against the types of concerns noted in the Futurewise letter, namely intensification of use and potential to build new homes “very close to the water.”

19D - Environment Designations: Futurewise et al. is concerned that the City has used only two environments (Shoreline Residential and Urban Conservancy), even though there is great variation across the City's 11.8 miles of shoreline. There are several segments of shoreline where homes are constructed at an almost rural density, where homes are set back well away from the water, where intact vegetation still exists between the homes and the water, or where homes are spaced apart with good vegetation existing between them. Yet these areas are grouped along with intensively developed areas with homes at the waterline.

Futurewise et al. recommends that the higher functioning upland areas be identified with protective environments that conform with the SMP Guidelines in both designation criteria and use limits to ensure they are not further degraded with additional development. Futurewise et al. state that these should be the Natural and Urban Conservancy environments. In addition the Shoreline Residential environment needs more careful application to avoid areas with higher ecological functions. The draft SMP treats both Urban Conservancy and Shoreline Residential environments nearly the same. Futurewise et al. recommends that more distinction be made in the use limits that correspond with the SMP Guidelines. Futurewise et al. is concerned that it appears that the buffer provisions are primarily intended to establish a system to deal the most common condition, though not the only condition: existing development. If the city is intent on using smaller non-science buffers for already developed lake areas, Futurewise et al. suggests that the shoreline environments must be established such that this type of buffer system is only applied to “intensively developed” areas.

Futurewise et al. recommends that certain specific areas be designated Urban Conservancy rather than Shoreline Residential.

19D - City Response: *Sammamish established shoreline environment designations based on existing ecological condition and function, existing land use pattern, and anticipated future uses; SEDs are reflective of the generally uniform uses occurring along the City's shorelines and are consistent with State Guidelines. The Futurewise letter suggests the higher functioning areas be*

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identified with “protective environments that conform to the SMP Guidelines in both designation criteria and use limits.” The City believes that the UC designation on the less altered shorelines in Sammamish is consistent with the State Guidelines, which define the purpose of the designation as follows: to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. (WAC 173-26-211(e)).

For the highest functioning areas within the UC environment (including wetlands, streams, associated buffers, and other significant habitat areas), the policies and regulations of the SMP provide additional protections through incorporation of SMC 21A.50, Critical Areas and Environmental Protection Policies and Regulations, Shoreline Vegetation Conservation Policies, Site Planning Policies, Water Quality, Stormwater and Nonpoint Pollution Policies and Regulations. The intent of these regulations is to ensure that where compatible uses are allowed within the UC environment, that they are planned for, designed, and used in a fashion that maintains or improves shoreline functions.

The Futurewise letter highlights specific ‘areas’ where SR areas should be UC. Many of these areas occur on Lake Sammamish; however the Futurewise list also includes the shoreline area north of Pine Lake Park and selected areas of Beaver Lake. The City’s approach to establishing shoreline environments was to identify and designate shoreline segments and groups of parcels according to broader patterns of ecological function, land cover, and planned use to avoid a parcel-by-parcel designation system consistent with State Guidelines (WAC 173-26-211 – Environment designation system). The City’s approach is consistent with the City’s intent to establish consistent policies and regulations for shoreline property owners with the same (or very similar) zoning and planned land use designations.

The City’s assessment of conditions on the northwest and southeast shorelines of Beaver Lake differs from the assessment suggested in the Futurewise letter. At either end of the northwest shoreline there are large publically owned and managed park / open space areas designated as UC. The area within 200 feet of the lake on the Preserve property originally contained a residence and a second structure along with a pump house on the lake which currently remains. A large area of open space is present where the original residential development and structures were located. Covenants on the property prevent its use for anything other than passive recreation and require that it be preserved in essentially its current state, leading to the UC designation. The shoreline between Beaver Lake Park and Beaver Lake Preserve, by contrast is composed generally of single-family residential properties (documented in the I&C Report and CIA. The Council concluded that development pattern matched the Guidelines’ criteria and purpose of the SR designation. This development pattern is consistent with the pattern along the majority of the southwest shoreline, which is designated SR (Official Shoreline Designation Map, Part 4 of 4).

Ecology decision reference (Shoreline Environment Designations) Ecology has provided analysis and a finding related to the City’s designation of shoreline environments. Ecology provided comments throughout the update process recommending a number of specific recommendations to the City’s related to their proposed environment designations. However, as provided in the Findings & Conclusion (Attachment A) Ecology has determined that the City provided a adequate basis to support their adopted environment designations consistent with applicable sections of the SMP-Guidelines.

19E - Technical Issue Recommendation: ‘Technical Issue Recommendation’ on page 6 of the Futurewise letter: Futurewise et al. suggest that not all of the Sammamish shoreline jurisdiction is mapped. This would result in the default designation of Urban Conservancy being applied in those circumstances.

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19E - City Response: *The SMP Official Shoreline Designation Map set clearly maps the waterward area within 200 feet of the ordinary high water mark (OHWM) as having the same environment designation as the adjoining shoreland areas. The decision not to map the full waterward extent was made in order to maintain focus of the SMP on the area where almost all uses and modifications have and will continue to occur. The statements in SMP 25.01.030 clearly define the extent of jurisdiction consistent with state law.*

In addition to mapping of the SEDs, the City's SMP has a clear approach to establishing policies and regulations for environment designations:

25.05.010 Shoreline Jurisdiction – (2) ... For Lake Sammamish, the waterward extent of shoreline jurisdiction, as measured from the OHWM toward the western city boundary, shall be governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the primary use. For Pine and Beaver Lakes, the waterward extent of shoreline jurisdiction, as measured from the OHWM toward the center of each lake, shall be governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the primary use. The OHWM shall be determined based on site-specific observation and assessment using accepted protocols and criteria in accordance with RCW 98.58.030(2)(b).

Section 25.05.020 (Shoreline Environment Designations) and text included on the Official Shoreline Designation Map set further discusses the City's straightforward system..

19F - Development Outside of Setbacks: Futurewise et al. is concerned that the setbacks and vegetation protection measures assume that additional development (without limit) outside of the narrow setback width will have no additional impacts on ecological functions. Futurewise et al. is concerned that there are extensive provisions to allow activities that will cause impacts, but little detail about how the impacts will be mitigated. Futurewise suggests the only provision that partially addresses this is Lake Sammamish vegetation enhancement area provision for reducing the already small setbacks. The system possibly also assumes that in developed areas, there are no ecological functions to impact. Futurewise et al. states that this is contrary to the science, as described in detail in its attached guidance document on using small buffers. Additional development continually intensifies and expands uses and facilities, and increases the impacts of the development. Even if the functions have been degraded by previous development, there are still functions present – probably even some habitat functions. Futurewise et al. is concerned that the new impacts will degrade those remaining functions more.

19f - City Response: *The City considered and included a variety of policies and standards for protection of shoreline vegetation and existing functions outside of the established setback for all three lakes. On Pine and Beaver Lakes the SMP requires 80% tree retention within shoreline jurisdiction and tree retention on Lake Sammamish is consistent with the requirements throughout the City (25.06.020(11)).*

New development and uses within the shoreline setbacks are restricted, while incentives for vegetation and reduced impervious surfaces are provided (25.06.020(3, 9 & 10)). Additional regulations that require consideration and minimization of development impacts throughout shoreline jurisdiction include the following:

- *25.06.020 (3) – Specifies that the amount of clearing and grading shall be limited to the minimum necessary to accommodate the allowed use/development.*
- *25.06.020 (5) – Specifies that property owners proposing new shoreline use or development shall mitigate adverse environmental impacts in accordance with this Program and other applicable regulations whether or not the use/development requires or is exempt from a shoreline substantial development permit*

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- 25.06.050 (1 – 4) – *Specifies requirements to ensure stormwater and nonpoint pollution from new shoreline uses and developments is minimized through use of BMPs for controlling erosion and sedimentation and use all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and water quality in accordance with SMC 15.05 (Surface Water Management), requirements of SMC 21A.50 and other applicable laws. Also specifies detailed requirements for new on-site sewage systems.*
- 25.01.070 (Critical Areas Regulations Incorporated by Reference) – *Incorporation of critical areas regulations provides additional protection of high functioning and/or high value areas, including wetlands, tributary streams, and associated buffers. These regulations extend through shoreline jurisdiction and provide significant protection to existing natural / open space areas where the approximate locations of wetlands and streams have been mapped (see I&C Report Map Folio).*

19G - Setback and Vegetation Conservation – General: Futurewise et al. is concerned that the CAO and SMP vegetation management systems are not based on science. Rather than being based on protecting the ecological functions of the shoreline, Futurewise suggests the standards are based on existing uses and convenience for further development. The science citations in the City of Sammamish's own "DRAFT Best Available Science Resource List" (issued June 2005) indicate the need for larger riparian buffers for lakes than those adopted by the city. Futurewise et al. is concerned that the proposed system will not (1) meet the SMA Policy, (2) prevent loss of ecological functions, (3) meet the mitigation sequencing requirement to avoid and minimize first, (4) compensate for impacts to shorelines and vegetation, (4) avoid or even account for the cumulative impacts of near-water development, and (5) meet the SMA science requirement.

19G - City Response: *Sammamish has worked to achieve a balance between ecological protection, shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.*

The City-adopted SMP includes a 50 foot setback (45 foot shoreline setback and 5 foot building setback) from the OHWM on all the lakes. On Lake Sammamish, the setback from the OHWM can be reduced to 20 feet (15 foot shoreline setback and 5 foot building setback) through with the use of a variety of mitigation incentives (25.06.020(7) and Table 1). The Redmond SMP, approved by Ecology, includes a Lake Sammamish setback of 35 feet from the OHWM. This setback can be reduced to 20 feet with planting of primarily native vegetation (20D.150.60-020). Legally established homes that are non-conforming to the City-adopted SMP are allowed to remain and may be reconstructed, replaced, or expanded as long as the changes do not increase the non-conformity (25.08.100(1)). In addition, one time footprint expansions of 1,000 square feet are allowed behind the structure with the establishment of a 15 foot vegetation enhancement area. A small, one time expansion of 200 square feet is allowed for legally established non-conforming houses (25.06.020(8) & 25.02.060(10)(a)).

The proposed SMP includes a variety of development regulations that prevent and/or mitigate impacts of new development. Property owners proposing new shoreline use or development must mitigate adverse environmental impacts in accordance with measures listed in SMC 25.06.020(10). Mitigation measures must be implemented according to the standard mitigation sequence of first avoiding, then minimizing, then compensating for impacts or providing replacement resources (over-arching SMP principle 25.01.050 and inclusion of mitigation sequencing requirements detailed in incorporated Critical Areas Regulations (SMC 21A.50.135 Avoiding impacts to critical areas)).

The discussion of setback / vegetation conservation standards within the Futurewise letter extends for seven pages. The following comments highlight key concerns from Futurewise (many of which

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are succinctly summarized by bulleted recommendations provided on Page 10 of the Futurewise letter).

Ecology decision reference (Mitigation Sequencing, Vegetation Management) Ecology has required multiple changes the City's SMP related to Mitigation Sequencing. These changes have been applied more specifically to vegetation management standards in the City's SMP. As discussed within Ecology's decision (including Attachments A, B, and C), some of the City's setback incentives are not consistent with mitigation sequencing as they either do not avoid or minimize impacts or do not require compensatory mitigation to offset potential impacts from future development. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

19H - Setback and Vegetation Conservation – Assessment of Existing Conditions: Futurewise et al. recommend that vegetation condition and setback character needs to be further (accurately) identified for use in the setback system.

19H - City Response: The standard shoreline setbacks in the SMP are designed to protect remaining existing ecological function while recognizing existing land cover / land use conditions along the City's lake shorelines. The existing vegetation patterns were considered in developing the setback provisions. City staff also take into account site specific information concerning vegetative cover at the time a development application is reviewed to ensure that the setback standards and ecological protection provisions of the SMP are applied.

19I - Setback and Vegetation Conservation – Protection and Enhancement of Vegetation on All Lakes / Basis from CAO Standards: Futurewise et al. suggests that existing vegetation is not protected and degraded vegetation areas are assumed to serve as protection from development, with the exception of the new enhancement area requirement for reducing the setback. This strategy effectively results in no vegetation protection in the SMP, even for extensive new development, and for development on areas with intact vegetation. Futurewise et al. states that this violates the Shoreline Management Act and the Shoreline Master Program Guidelines. With the wide diversity of developed shoreline character existing in the City, a different strategy is needed to protect the shorelines with higher levels of function from further degradation, while also dealing with the highly developed areas. Futurewise et al. recommend different ecological protection strategies to achieve no net loss of ecological function.

Futurewise et al. is concerned that the lake setbacks in the proposed SMP are based on the lake CAO buffers system. Futurewise et al. is of the view that the problems with the CAO mirror the problems described for the SMP, and the problems in the lakes buffers (especially reductions) mirror the problems in the CAO stream and wetland buffers. Futurewise et al. is concerned that the lake buffers or setbacks are not based on science, and are incapable of protecting shorelines. Quote from Futurewise et al. (pg. 10):

“Aside from being inadequate to protect water quality, such widths cannot even provide wildlife habitat for even modest sized riparian species. All riparian buffer vegetation performs similar functions related to water quality, bank stability, debris and food sources, riparian wildlife species habitat, and wildlife migration. Science-based lake buffers should more closely resemble buffers for streams and wetlands.”

19I - City Response: The City established a standard shoreline setback of 45 feet plus a 5 foot building setback for all shorelines. Uses of the shoreline setback area are limited, with maximum permissible footprint of residential accessory structures specified at 200 SF (25.06.020(7), 25.07.080, and Table 1). Consistent with the City's intent to balance protection of shoreline ecological function with protection of property rights, the SMP uses multiple approaches to

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maintain conditions and functions along the Sammamish, Pine, and Beaver Lake shorelines.

Approaches include the following standards:

- For residential uses within UC areas, the maximum amount of impervious surface allowed shall not exceed 40% of the lot area above OHWM (25.07.080(2)(c)).*
- Expansion or reconfiguration of existing legally established residential structures is allowed, however expansion within shoreline setback areas and/or resulting in a reduced shoreline setback is highly limited (25.07.080(3)(a and b)).*
- Residential subdivision within shoreline jurisdiction is limited, with a 50 foot minimum lot width (at or near the OHWM) and 12,500 SF minimum lot size (for created lots) required for subdivision. Analysis as part of Planning Commission and City Council review of the SMP (included in the CIA) determined that potential for subdivision within shoreline jurisdiction would be extremely limited on all lakes, especially Lake Sammamish. These subdivision criteria will ensure that more intensive use of the shoreline through extensive creation of new shoreline lots does not occur over time.*

Additionally, many of the less developed Urban Conservancy areas along the Sammamish, Pine, and Beaver Lake shorelines are part of City-owned park and open space areas. Several of these park areas include protection / conservation requirements, and all are managed according to master use plans. Beaver Lake Preserve was placed in public ownership with a requirement that it would be preserved as natural open space – development that is identified within the Beaver Lake Preserve Draft Master Plan is limited to passive soft surface trails, some ADA accessible trails, wildlife view points and view decks, and one hand boat launch along the lake shoreline.

The City has recently completed master planning for Beaver Lake Park. The Preferred Alternative Plan identifies wetland and stream areas through the park. Under the Plan, development near the shoreline will include shoreline restoration; active use areas will largely be consistent with existing conditions; lake and stream riparian areas are maintained with improvement to existing trails and limited development of new trails.

Pine Lake Park has recently undergone major capital improvements, with shoreline restoration a significant portion of activities. Development of active uses was focused on areas well setback from the shoreline, with significant riparian cover maintained throughout most of the 200 feet backing the shoreline.

Lake Sammamish Landing is the undeveloped park area extending along much of the City's northern Lake Sammamish shoreline. The Master Plan adopted priorities for the park:

- 1. To provide public access to Lake Sammamish.*
- 2. To enhance and protect the environmentally sensitive shoreline areas.*
- 3. Generate support and interest in the park.*

The Preferred Plan for the park is consistent with these priorities, with shoreline and riparian restoration identified along with enhanced public access facilities.

In all of these park areas, wetlands, streams, and associated buffers, as well as other identified wildlife habitat areas, will be provided protection through incorporated critical areas regulations (21A.50). Within Beaver Lake Park, Beaver Lake Preserve, the large wetland to the southwest of Pine Lake (UC designated area) and other inventoried and un-inventoried wetland and stream areas, protection and mitigation for unavoidable impacts would be would required.

The City also considered strategies for shoreline setbacks being considered and implemented by other Lake Sammamish jurisdictions. The Redmond SMP, approved by Ecology, includes a Lake Sammamish setback of 35 feet from the OHWM. This setback can be reduced to 20 feet with planting of primarily native vegetation (20D.150.60-020).

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19J - Setback and Vegetation Conservation – Shoreline Setback Reduction on Lake

Sammamish: Futurewise et al. is concerned that lake buffers in the CAO (setbacks in the SMP) are a maximum of 45 feet for Lake Sammamish, but are so discretionary that they more often come out to 15 feet. There are no vegetative buffers required for Beaver or Pine Lakes – only building setbacks of 50 feet, and a requirement to keep a portion of the trees.

19J - City Response: *The City-adopted SMP includes a 50 foot setback (45 foot shoreline setback and 5 foot building setback) from the OHWM on all the lakes. On Lake Sammamish, the setback from the OHWM can be reduced to 20 feet (15 foot shoreline setback and 5 foot building setback) through with the use of a variety of mitigation incentives (25.06.020(7) and Table 1). This approach is based on existing land use and development patterns, where single-family homes occur at urban densities with relatively narrow setbacks (generally 20 to 50 feet, or less, on Lake Sammamish and 50 to 80 feet on Pine and Beaver Lakes). For Lake Sammamish, existing development patterns require use of an incentive-based, multi-faceted approach to ensure no-net-loss while allowing consistent and reasonable development. This was the City's intent in developing standards 25.06.020(9) (Lake Sammamish Vegetation Enhancement Area) and 25.06.020(10) (Lake Sammamish Reduced Shoreline Setback).*

For Pine and Beaver Lakes, no setback reductions are allowed, additions to non-conforming residences must generally occur only behind the residence and vegetation enhancement may be required. 80% tree retention is required for all areas within shoreline jurisdiction.

The approach is generally consistent with Futurewise guidance 'Making Small Shoreline Buffers Work with Buffer Guidance' (attached to the comment letter). The guidance specifies 20 feet as the smallest buffer that should be allowed where 'science-based' buffers are not feasible due to existing development and ongoing use. The SMP establishes a standard setback of 50 feet (45 + 5), and only allows reduction (Lake Sammamish only) below this when one or more of a suite of mitigation options are included. Responses for specific comments on the setback reduction mitigation options are included below.

The Futurewise et al. letter contains several recommendations for specific changes to the SMP language, including several specific comments regarding the setback reduction criteria listed in table 1 within the SMP.

- *Reduction 1, Alt. 2 and Alt. 3: The three alternatives developed as part of Reduction Criteria 1 were intended to incentivize shoreline stabilization alternatives and maintenance of natural shorelines wherever feasible. Many of the existing single-family residential lots along the Lake Sammamish shoreline have bulkheads or other structural shoreline stabilization. Removal of these structures is encourage by Alternative 1. For shoreline residential lots that are partially modified or not modified, the City's intent is to encourage full restoration to natural conditions or maintenance of natural conditions if they occur. Alternatives 2 and 3 create this fair and consistent approach for Lake Sammamish property owners while encouraging restoration and / or maintenance of shoreline conditions along the entire length of the shoreline.*
- *Reduction 2: Establishing the shoreline vegetation enhancement area is only triggered for certain expansion of existing legal non-conforming structures, or as an alternative for when new structures seek to build closer than the standard shoreline setback. Existing residential development along Lake Sammamish is frequently less than 40 feet from the lake shoreline. Given the existing pattern, the City's approach for Reduction 2 is to encourage wider setbacks (where feasible from lot constraints) or allow maintenance of the existing pattern of development when the vegetation enhancement area is completed consistent with 25.06.020(9).*
- *Reduction 4 and 5: The Futurewise letter criticizes small (5 to 10 foot) reductions for encouraging development to limit impervious surface coverage and lawn coverage. The basis*

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for the criticism is focused on how it would be ineffectual for large lots. This is inconsistent with the general pattern of lots along the City's Lake Sammamish shoreline, which are comprised of relatively small lots with significant existing impervious coverage (where developed). Given the existing pattern of lot size and development, incentivizing reductions in impervious surface and / or lawn area will result in greater coverage of vegetation throughout the lot area.

- *Reduction 6: The Futurewise comment suggests adding 1 foot of width to the shoreline vegetation enhancement area for 1 foot of reduced shoreline setback, with a maximum 10 foot reduction available. This suggestion is similar to the 50 SF addition per 1 foot reduction currently proposed.. As currently proposed, additional areas of vegetation enhancement would be contiguous with the vegetation enhancement area, however could allow some flexibility for site planning on generally small (constrained) residential lots.*
- *Reduction 7: Maintenance and/or restoration of aquatic vegetation provides significant habitat functions along the shoreline. Similar to alternative criteria for Reduction 1, allowing maintenance / conservation of vegetation where it occurs allows the City to encourage shoreline restoration in all areas.*
- *Reduction 8: Implementation of the shoreline vegetation management plan required by this reduction option would require review and approval by the City. In addition, implementation of the plan would be ensured consistent with the City's existing approach for ensuring implementation (monitoring and maintenance) of required mitigation plans (for critical areas impacts).*

Although property owners are allowed limited additions to existing structures within the setback or may reduce the setback width on Lake Sammamish, the effects are offset by the beneficial actions that property owners take to enhance nearshore/shoreline vegetation and/or remove hard armoring. By creating an incentive for property owners to "soften" bulkheads and incorporate fish-friendly, natural shorelines and restore the riparian areas immediately landward of the shoreline, the overall condition of the shoreline is expected to improve compared to current conditions. This is particularly relevant due to the developed nature of the majority of the shoreline with most residences already constructed close to the OHWM. Property owner development is expected to be primarily additions and remodels.

On highly developed shorelines in developed basins, like the Lake Sammamish shoreline and the East Lake Sammamish Basin, actions outside of shoreline jurisdiction can have as much or potentially greater impacts on shoreline functions than buffer width and wide buffers may not be that advantageous in terms of maintaining water quality and habitat. However, vegetation enhancement and bulkhead removal at the water's edge can have positive effects on water quality and habitat by creating shade, providing organic inputs, removing impediments to migration, and opening up spawning habitat (see the Sammamish Shoreline Inventory and Characterization Report, and Chapter 2 of this report, for further discussion). As a result of required setback reduction actions, the net adverse effect of the reduced setback width is negligible and more than offset by mitigation actions.

19K - Incorporated Critical Areas Ordinance – General: The proposed SMP relies on the CAO protections by incorporating the CAO by reference. The SMP Guidelines require that jurisdictions design their SMP to protect ecological functions. Futurewise et al. is concerned that the CAO (1) does not address all shoreline areas, and (2) may allow many uses and activities that cause damage to the shoreline. If the CAO cannot protect ecological functions, then it cannot be used alone, and must be either amended itself, or supplemented within the SMP.

Futurewise et al. is concerned that the setback and vegetation requirements for streams are not defensible in the face of a legal challenge, unless they are accompanied with enhancement requirements as an alternative to science-based buffers can mitigate the impacts of development close to the water.

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19K - City Response: *Critical areas regulations were developed for consistent application throughout the City to protect unique, fragile, and valuable elements of the environment and require mitigation of unavoidable impacts on environmentally critical areas by regulating alterations in or near critical areas (21A.50.010 – Purpose). The City has worked to achieve balance between private property rights and protection of ecological functions; incorporation of critical areas regulations into the SMP without significant changes to provisions (outside of those required focused on shoreline setback and vegetation protection standards) allows for continued use of consistent standards throughout the City. Specific concerns pertaining to integrated critical areas regulations are summarized and addressed below.*

Ecology decision reference (Critical Areas) - please see discussion under 19N.

19L - Incorporated Critical Areas Ordinance – Specific Concerns: Futurewise et al. is concerned that the City’s integrated CAO standards include ‘inappropriate buffer related provisions’ (see page 19 of comment letter). Concern is focused on:

- CAO allowances for use of buffers (utilities and stormwater facilities, trails);
- standards for lacustrine wetlands;
- allowances for small wetlands (under 100 SF), and
- exclusion of allowance for ‘water-enjoyment uses’ within the buffer.

19L - City Response:

• **CAO Allowances for Utilities and Trails**

Allowances for utilities and trails within critical areas buffers are detailed at length in 21A.50. The City’s provides allowances to enable common and necessary infrastructure development - the location and design of which are typically constrained because they must follow existing rights-of-way, connect to other existing infrastructure, or meet safety standards. The City’s provisions ensure that allowances are limited, necessary, and that impacts are mitigated. For example, alterations allowed within wetlands and wetland buffers are detailed by 21A.50.300. The section states that utilities may be allowed in wetland buffers if it is determined “that no reasonable alternative location is available” and “the utility corridor meets any additional requirements for installation, replacement of vegetation and maintenance, as needed to mitigate impacts” (21A.50.300(4)). Additional provisions are applied for utility corridors, including assurance that the wetland and wetland buffer is not utilized by a species listed as endangered or threatened by state or federal government...”, that the corridor alignment is as far from the wetland within the buffer area as is feasible, tree protection standards, that additional buffer is provided, that necessary access points (maintenance roads) minimizes disturbance, and so on (21A.50.300(5)). Similar protective measures are provided for stormwater utility allowances, public and private trails, and crossings (21A.50.300(6 – 13). Allowances for streams, primarily focused on stream buffer areas, are similarly refined to facilitate very specific allowances, as detailed by 21A.50.340.

Outright exemptions from critical areas standards for utilities are limited to alterations required by emergency situations, normal and routine maintenance, relocation of certain facilities (excluding electrical substations and high-voltage lines) when required by a local governmental agency that approves the new location of the facilities, and activities within existing developed utility corridors (21A.50.050 – Complete exemptions). Clearing and grading exemptions referenced in 21A.50.050(5) are detailed to ensure that exemptions that may impact critical areas do not apply when occurring in a critical area or associated buffer (16.15.050 Clearing and grading permit required – Exceptions).

Other King County cities have similar provisions for certain allowed uses within critical areas – like Sammamish, the majority of these provisions are focused on allowances for reduced buffer

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widths and/or alignment of utility and trail facilities through buffers and use of buffers for certain types of stormwater facilities. See Bellevue Land Use Code ([20.25H.050 Uses and development in the Critical Areas Overlay District](#)), City of Duvall Sensitive Areas Regulations ([14.42.220 0- Wetland Alterations](#)), City of Kirkland Chapter 90 – Drainage Basins ([90.55 and 90.60](#)).

State and federal regulations, documented in the Inventory and Characterization Report and Cumulative Impact Analysis, also require protection for wetlands, streams, and lakes. All development activity, except as exempted by specific provisions of state and federal programs, would have to comply with these regulations and provide appropriate mitigation for any impacts that occur.

Ecology decision reference (Critical Areas) - please see discussion under 19N.

- **Lake Fringe (Lacustrine) Wetlands**

Critical areas provisions specify that wetlands located entirely waterward of a lake's OHWM should be regulated consistent with SMP standards (setback, vegetation protection) (21A.50.290(2)). This provision was developed to establish clear and consistent standards for shoreline property owners. The Futurewise letter does not clearly state that the provision would apply only to lake fringe wetlands located entirely waterward of the OHWM. For wetlands extending waterward and landward of the OHWM, wetland standards would still apply.

- **Exemption for Small, Isolated Wetlands**

The limited exemption provided by 21A.50.320 for isolated wetlands less than 1,000 square feet is common to many neighboring jurisdictions' critical areas provisions (see discussion below). Impacts to isolated wetlands are also reviewed by Washington State Department of Ecology and require an Administrative Order. The state may require mitigation (<http://www.ecy.wa.gov/biblio/0106020.html>).

The City of Bellevue does not regulate Category IV wetlands under 2,500 square feet in size (<http://www.codepublishing.com/wa/bellevue/LUC/BellevueLUC2025H.html#20.25H.095>). The City of Duvall may allow alteration or displacement of Category IV wetlands less than 2,000 square feet in size (<http://library.municode.com/index.aspx?clientId=16325&statelid=47&stateName=Washington>).

Ecology decision reference (Critical Areas) - please see discussion under 19N.

- **Water-Enjoyment Uses**

Allowances for water-oriented uses within the shoreline setback are consistent with the City's intent to establish a balanced SMP that protects the public interest while still allowing for private property rights and appropriate uses. "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

In Sammamish water-enjoyment uses would be associated with an existing public park / open space area, and would likely be limited to recreational trails and/or wildlife viewpoints / view platforms. In the limited areas where water-enjoyment uses could occur in the City as accessory to recreational uses, the City does not want to exclude such uses from the shoreline

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setback area (limiting potential for enhancing public access).

19M - Use Regulations: Futurewise et al. is concerned that the SMP lacks regulation for a variety of identified shoreline uses and modifications. Thus, the concern is that many uses would be allowed by default with a shoreline conditional use permit. Futurewise et al. is concerned that there is no language in the SMP requiring the use of the use table.

19M - City Response: *The SMP was developed to provide consistent and usable policies and regulations for uses and development within the shoreline area; amongst other strategies to achieve usability the SMP is focused on uses and development activities that commonly occur and/or are allowed by underlying zoning in shoreline areas. As documented in the I&C Report and the CIA, existing and anticipated uses along the City's lake shorelines are significantly limited. Existing and planned primary uses include residential use, recreational and open space uses, transportation use, and utility use. Underlying zoning throughout shoreline jurisdiction is R-4 (Urban Residential – maximum density of 4 dwelling units per acre). Allowed uses within R-4 areas include primarily single family residential and accessory uses. Uses not listed may not be allowed by underlying zoning, or, would require a shoreline conditional use permit.*

The SMP does not address the following specific uses as none occur or are generally permitted in shoreline areas of the City by underlying zoning: aquaculture, commercial, forest practices, industry / port, mining, and multifamily residential. Including policies and regulations for these uses are not necessary as they are not generally permitted uses.

Boating facilities that do occur and are anticipated to continue in the City are addressed through policies and regulations for docks and other moorage uses (25.07.050 and 25.07.060) and boat launches (25.07.040). The SMP includes Shoreline Restoration and Enhancement Goals (25.03.060) and Restoration regulations (25.06.040).

The introductory text to the Permitted Uses table details coordination between the table and all use regulations that follow (25.07.010).

Ecology decision reference (Shoreline Uses) Ecology has specified Required Changes (Attachment A) related to both appropriate definitions of uses within the SMP and distinction of all SMA-related uses as either “permitted” (including development standards to satisfy no net loss), “Conditional” (requiring a Conditional Use Permit), or “Prohibited” (potential impacts do not need to be considered). Further, Ecology has provided a finding within Attachment A (Findings & Conclusions) concurring with the City's conclusion that no use conflicts are anticipated through implementation of the SMP.

19N - Critical Areas Integration: Futurewise et al. is concerned that certain CAO provision should be excluded from the SMP. While the SMP accurately applies the ordinance to uses and development, Futurewise et al. is concerned that the CAO is a chapter of the Development Code Title 21A, and Section 21A.05.040 only applies the CAO to uses and structures, and excludes temporary and emergency activities; which have a more limited application than the SMA. Futurewise et al. recommends that rather than adopting the CAO wholesale, that only the acceptable sections be adopted to serve as specific development standards. Futurewise et al. states that Ecology should ensure that reductions of the buffer are subject to a Variance review.

19N - City Response: *The City considered alternatives in incorporation of critical areas regulation (21A.50) into the SMP. Further, the City is aware of integration consideration for certain permits (Reasonable Use Exemption requiring a Shoreline Variance, for example) and other administrative provisions. The City is required to ensure consistency with SMA requirements and State Rules during implementation and administration of the SMP.*

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Ecology decision reference (Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

19O - Critical Areas Regulations – Exemptions: Another concern raised by Futurewise et al., is that the CAO includes two sections called Complete Exemptions and Partial Exemptions, and Partial Exemptions have been copied into the SMP. Futurewise et al. is concerned that utility activities; any activity in a lake, stream, wetland, or buffer during an emergency; repair, modification, or replacement of streets; clearing, excavation, and filling that can qualify for a clearing and grading permit exemption; repair of public recreation areas are exempted from protecting shoreline resources. This section allows degradation of ecological functions and cumulative impacts that have not been accounted for. Futurewise et al. states that it needs to be excluded from the SMP.

Partial exemptions (in CAO 21A.50.060, and SMP 25.06.020(8)) provides a special category of review more similar to the Shoreline Exemptions, where the development is exempt from the review process, but not the protection standards. While the approach may be similar to the SMA, Futurewise et al. is concerned that it is not compatible with the SMA.

19O - City Response: *Specifics regarding the City’s approach for complete exemptions and allowances within critical areas regulations, as incorporated into the SMP, are discussed in a previous response above.*

Partial exemptions previously included in 21A.50, and redeveloped for application in the SMP, are designed to allow for certain uses and activities without requiring shoreline permit procedures, but as specifically stated, in conformance with state law. When state law requires a shoreline substantial development or other permit, the permit would still be required. The partial exemptions still require that all applicable standards of the SMP be followed. Partial exemptions are detailed by 25.06.020(8)), and include: structural modification, addition to, or replacement of existing legally created structures that do not meet shoreline setback and building setback requirements provided that the nonconformance into the shoreline setback is not increased (or minimally increased for the primary structure consistent with criteria 25.06.020(8)(b and c); select vegetation removal activities; and conservation, preservation, restoration and / or enhancement activities.

The City is aware of SMA required administrative and permitting standards; the SMP will be administered consistent with State Guidelines.

Ecology decision reference (Critical Areas) - please see discussion under 19N.

19P - Miscellaneous Concerns – Intensification of use in an urban environment: Futurewise et al. notes that the inventory documents the highly developed nature of Sammamish's shorelines. Therefore, Futurewise et al. conclude that the SMP needs to stop or slow the proliferation of in-water

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structures.

19P - City Response: *Through completion of the Inventory and Characterization Report, Planning Commission and Public review and comment, and City Council adoption, the City developed a fair and consistent approach for the SMP to meet State Guidelines while allowing reasonable (and preferred) redevelopment and development consistent with City zoning, Comprehensive Planning, and parks master planning. The SMP incorporates provisions to ensure that new and/or expanded in-water structures are limited in length and size, that joint use facilities are preferred in instances where subdivision occurs, and that structures are designed and constructed to minimize impacts.*

19Q - Miscellaneous Concerns – SMP Terminology: Futurewise et al. is concerned that many development regulation use the term "reasonable" to limit the applicability of a specific standard when "feasible" would be a more appropriate term.

19Q - City Response: *Through completion of the Inventory and Characterization Report, Planning Commission and Public review and comment, and City Council adoption, the City developed a fair and consistent approach for the SMP to meet State Guidelines while allowing reasonable (and preferred) redevelopment and development consistent with City zoning, Comprehensive Planning, and parks master planning. The Futurewise comment is noted.*

19R - Miscellaneous Concerns – Subdivision: Futurewise et al. state that "no new subdivision lots should be allowed" in shoreline jurisdiction.

19R - City Response: *The analysis conducted for the CIA included evaluation of the potential effects of subdivision of property (See pages 41, and 46-47). The analysis was focused on Pine and Beaver Lakes, as very little potential for subdivision is available on Lake Sammamish. The CIA documents where there is moderate potential for lot subdivision on the smaller City lakes, that the standards of the SMP are intended to focus the intensification of land use away from the shoreline area (requiring shared use docks, existing pattern of long, narrow lots with existing development at the lake-end of the lot). In addition the CIA discusses previous subdivision trends, which suggest that significant levels of subdivision will not occur within the foreseeable future (since 2005, one short-plat subdivision has occurred on Beaver Lake, none on Pine). The location of parcels that are large enough to be subdivided into more than four lots is limited to Pine and Beaver Lakes. Beaver Lake has 11 vacant parcels that could be subdivided based on width and size. Five of these are public parks or preserves, and the remaining parcels are constrained by critical areas that reduce the potential lot yield to four or fewer or have limitations from prior platting or conservation easements. Of the 13 parcels on Pine Lake, one is Pine Lake Park, one is a private open space tract, and one is just over the amount needed for four lots. There is one parcel that could create more than 10 lots and that parcel is 400 feet from Pine Lake Park. Additional limitations to subdivision would come through standards required for new on-site septic systems when sewer is unavailable, as well as lot size and width requirements at the Ordinary High Water Mark. See CIA discussion, page 46.*

Futurewise et al. is concerned that trails should be located outside of buffers in accordance with mitigation sequencing when possible. Futurewise et al. is concerned that SMC 21A.50.320 waives protection measures for certain small wetlands and that the reasonable use provisions at SMC 21A.50.070 is overly expansive.

19S - Shoreline Stabilization: Futurewise et al. states that as a general standard, all new development should be designed so that it will not need future stabilization. Futurewise et al. is concerned that the SMP's Shoreline Stabilization Policies (in 25.04.020(5)) cover this issue, but the regulations do not implement it.

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Futurewise et al. also recommend that no new bulkheads or armoring should be allowed unless non-structural measures have been tried first. When allowed, new stabilization structures should include removal of twice their length of stabilization elsewhere, particularly in locations where stabilization is not needed, is ineffective, is dilapidated, or where “pocket beaches” can be installed; and those sites should be protected from future stabilization. Replacement stabilization structures should remove an equal length elsewhere.

19S - City Response: *The suggestion from the Futurewise letter that shoreline stabilization standards need to be added for all types of development is inconsistent with the pattern of existing development and planned use of the City’s lake shorelines. Stabilization standards are included for stabilization types common and anticipated for residential, recreational, utility, and transportation uses – other primary uses do not occur on the shorelines of the City.*

The mitigation approach suggested by the Futurewise letter (removal of twice the length elsewhere for new shoreline stabilization) is not feasible. The large majority of Sammamish shorelines are owned by residential property owners, with relatively short lengths of shoreline under their ownership and control. Implementing the suggested program would in practice prohibit shoreline stabilization, even where deemed necessary for protection of an existing structure. As an alternative, the City has developed an approach to regulating shoreline stabilization that is fair and consistent for shoreline property owners, while only allowing structural stabilization approaches where deemed necessary by specific criteria. The SMP approach is summarized below:

The SMP restricts construction of new bulkheads and expansion of existing bulkheads on residential properties to those situations where ‘soft-shore’ or bio-stabilization approaches are deemed infeasible (see CIA for additional discussion). This additionally extends to legally established bulkheads that need to be replaced (25.07.070(6)) (maintenance and repair is allowed pursuant to 25.07.070(8)). Bulkheads are only allowed when there is evidence from a geotechnical engineer that the existing primary structure is in imminent danger of damage caused by wind or waves and not by improper drainage, vegetation removal, or other upland conditions, for projects whose primary purpose is remediating hazardous substances pursuant to RCW 70.105, or to ensure shoreline access for substantial numbers of people. (25.07.070(2), (3) and (4)).

When shoreline stabilization is determined necessary, mitigation is required in the form of protection and/or enhancement of the vegetation within the shoreline vegetation enhancement area (25.07.070(1)(a)). Additional standards would apply to the size and design of the stabilization, including requirements for incorporation of natural vegetation and habitat elements wherever reasonable, and construction and maintenance in a manner that does not degrade the water quality of affected waters, maintains surface- and groundwater flows (weep holes) (25.07.070(1)(b, c, d, f, g, h)).

No gabions, motor vehicles, appliances, structure demolition debris, or solid waste to be used for shoreline stabilization. Any such objects that may be remnant from replaced shoreline stabilization must be removed from the shoreline and shoreline setback unless doing so would cause damage to the environment. (25.07.070(1)(e))

Breakwaters, jetties, rock weirs, groins and similar structural modifications are prohibited. 25.07.070(10).

Ecology decision reference (Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a)

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are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

19T - Piers, Docks, and Boating facilities: Futurewise et al. is concerned that the draft SMP does not address boating facilities, except in that it allows a few named types of boating facilities, and it provides no development standards for boating facilities. Futurewise et al. has several recommendations to ensure that, in its view, the draft SMP accurately complies with the Guidelines on these subjects.

Futurewise et al. is concerned that some of the standards proposed in previous drafts, such as the dock spacing requirement have been eliminated. The Docks policies (in 25.04.020) discuss sharing facilities, but there is no implementation to actually make it happen. Even a standard for subdivisions to share moorage is rendered ineffective. Table 3 “summarizes” the development standards and says that shared docks are required. But such a statement is not found in the text. In addition the residential subdivision provisions still allow an “additional” shared use dock, presumably to serve for non-waterfront lots, thus encouraging dock proliferation. There are many development standards for shared moorage when it is proposed, but there is no actual requirement to share moorage docks and piers.

Futurewise et al. is concerned that the issue of repair and replacement is not addressed as it relates to bringing piers and docks into conformance with the code as substantial parts are replaced over time.

***19T - City Response:** The SMP includes standards to limit overall dock length (85 feet or the length necessary to reach a depth of 8 feet) and area (dependant on number of residential lots using the dock – see CIA Table 3 and 25.07.050(2 and 3)) for residential docks. Other standards for overwater structure include limitations on boat lifts and canopies (allowed with restrictions on Lake Sammamish, prohibited on Pine and Beaver Lakes), and limitation on the number of floats allowed.*

Development of the SMP also recognized state and federal standards for design, location, and construction of docks and other in-water structures. Standards implemented by the Army Corps of Engineers and WDFW include specification for materials, design standards, and construction methods all provided to minimize impacts to aquatic areas. Federal and state standards additionally require mitigation for impacts associated with development of new or expanded overwater structures.

Ecology decision reference (Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

19U - Septic Drainfield Systems: Futurewise et al. is concerned that no new septic systems or

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expansions of existing septic systems should be allowed within City shoreline jurisdiction. And those currently used eventually need to be connected to municipal sewage treatment system.

Futurewise et al. notes that the GMA requires that jurisdictions provide their areas with urban-level sewer, water, transportation, and other services. It is inappropriate for urban/city density development (especially near water) to be taking place on septic systems (as allowed in 25.06.050(3)), and existing dense areas of development need to be switched over. Futurewise et al. states that if there are no city sewer facilities near shoreline areas, the City needs to correct this shortcoming by developing new policies for Utility planning within shoreline jurisdiction and to update the Comprehensive Plan and the City's functional plans such as the Sewer System Plan and the Capital Facility Plan to provide the needed sewer service.

19U - City Response: *Proposed SMP allows subdivision on lots a minimum of 50 feet wide, and specifies that all created lots must have a minimum area of 12,500 square feet. Additional density would be consistent with underlying zoning and only be permitted if all other site conditions would allow (SMC 25.07.080(8)).*

New subdivision, if served by septic systems, would be required to meet Washington State Department of Health / King County Department of Health standards for on-site septic until public sewer is made available. See response to subdivision comments above for discussion of foreseeable subdivision within the Pine Lake and Beaver Lake shoreline areas. Note that both sewer and water service is provided by independent districts within the City of Sammamish.

19V - Public Recreation: Futurewise et al. is concerned that all public recreation is a preferred use, which is inconsistent with the SMA. Only water dependent uses are preferred, though some recreation uses can qualify for this status.

19V - City Response: *The Shoreline Public Access Regulations are consistent with Sammamish's Comprehensive Plan, Open Space Plan, and various park master plans. Parks master plans document the City's intent to enhance and/or develop shoreline parks in a fashion consistent with the intent of this Futurewise comment (Master Plans were noted in discussion previously about vegetation management, with links to plan). Water-oriented development is focused along the shoreline, and all other planned parks improvements are located well away from the shoreline wherever feasible. The Plans additionally identify shoreline restoration and open space conservation in less developed areas along the lake shorelines (as well as associated wetlands and stream corridors). A Public Access Summary that features citywide shoreline park and open space plans along with bike and pedestrian access routes is included in Folder 5 – Related Documents of the SMP submittal to ECY.*

19W - Public Access: Futurewise et al. is concerned that there is no public access requirement in the SMP. Futurewise et al. recommends that new physical public access be required for new single-family residential subdivisions that will create more than four lots and residential developments of more than four housing units; and for commercial, industrial, and other nonresidential uses.

19W - City Response: *Sammamish is committed to meeting the shoreline public access needs of its residents. Public access is currently available on all three SMP regulated lakes. Provisions for increased access are included in the Public Access Summary found in Folder 5-Related Documents of the ECY SMP submittal.*

There is little to no subdivision expected in the City's shoreline areas that would result in creation of 4 or more new lots – such subdivision is potentially feasible on approximately 10% of Pine and Beaver Lake residential lots, however review of development trends over the last six years indicates that subdivision will not occur at significant levels (CIA). The City developed a fair and

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consistent approach to public access policies and regulations; in doing so the City determined that focusing public access improvements at existing park and open space areas along each of the shorelines would best serve public needs.

19X - Shoreline Exemptions: Futurewise et al. is concerned that a description of the abbreviated shoreline exemptions review process is needed. WAC 173-26-191(2)(a)(iii)(D) requires that jurisdictions document their review actions. This includes exemptions. WAC 173-27-040(2)(D) clearly states that work done under an emergency exemption must be removed or obtain a permit. This aspect of the state emergency exemption provisions is entirely missing and should be included in the proposed shoreline master program. Futurewise et al. recommends several changes to the exemption review process to address its concerns.

19X - City Response: *The City is aware of SMA required administrative and permitting standards; the SMP will be administered consistent with State Guidelines.*

19Y - Cumulative Impacts Analysis: Futurewise et al. is concerned that the Cumulative Impacts Analysis (CIA) does not adequately address cumulative impacts that would be allowed by gaps in the SMP. Futurewise et al. has pointed out what it believes to be many uses and regulation that allow impacts to shoreline ecological functions. Almost none of these are accounted for the CIA.

19Y - City Response: *Comments regarding inadequacies of the CIA are noted. As the comment states, many of the CIA's perceived inadequacies are a result of perceived shortcomings in the SMP. The responses to all other SMP comments from the Futurewise letter address the City's approach to developing a fair and balanced program. Other responses address the primary concern with the CIA.*

As stated in the CIA, a significant component of the SMP comes through adoption and implementation of the Shoreline Restoration Plan. During the SMP Update Process, the City developed a Restoration Plan that is intended to provide recommendations for restoring the shorelines of Lake Sammamish, Pine Lake and Beaver Lake as well as developing a framework under which shoreline restoration can be successfully achieved. As components of the plan are implemented voluntarily or as mitigation for development impacts, the City expects to see a gain in shoreline ecological functions, which will offset some of the effects of past and expected future development.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology's findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology's decision. Pursuant to WAC 173-26-201, *ecological functions* within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology's Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to err on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City's supporting documents (Inventory/Characterization, Cumulative

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Impact Assessment).