

SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST – JUNE 2010

This checklist is for use by local governments to satisfy the requirements of WAC 173-26-201(3)(a), relating to submittal of Shoreline Master Programs (SMPs) for review by the Department of Ecology (Ecology) under Chapter 173-26 WAC. The checklist does not create new or additional requirements beyond the provisions of that chapter.

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INSTRUCTIONS

This checklist is intended to help in preparation and review of local shoreline master programs (SMPs). Local governments should include a checklist with all SMPs submitted for review by Ecology.

Information provided at the top of the checklist identifies what local jurisdiction and specific amendment (e.g. comprehensive update, environment re-designation or other topic) the checklist is submitted for, and who prepared it. Indicate in the location column where in the SMP (or other documents) the requirement is satisfied. If adopting other regulations by reference, identify what specific adopted version of a local ordinance is being used, and attach a copy of the relevant ordinance (*see example 1, below*).

Draft submittals: For draft submittals, local governments may use the Comments column to note any questions or concerns about proposed language. Ecology may then use the Comment field to respond (*see example 2, below*).

Final submittals: When submitting locally-approved SMPs for Ecology review, leave the comment field blank. Ecology will use the comment field to develop final comments on the SMP.

Ecology has attempted to make this checklist an accurate and concise summary of rule requirements, however the agency must rely solely on adopted state rules and law in approving or denying a master program. This document does not create new or additional requirements beyond the provisions of state laws and rules [WAC 173-26-201(3)(a)].

EXAMPLE 1: reference other documents if necessary

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Inventory of existing data and materials. WAC 173-26-201(3)(c)(i) through (x).	Appendix A: Shoreline Inventory and Analysis, Section 2 (see Attachment 2)	
Wetland buffer requirements are adequate to ensure wetland functions are protected and maintained in the long-term, taking into account ecological functions of the wetland, characteristics of the buffer, and potential impacts associated with adjacent land uses. WAC 173-26-221(2)(c)(i)(B)	Section 83.500 (see Attachment 6)	

EXAMPLE 2: for draft submittals, use Comments column

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
High-intensity environment designation criteria: Areas within incorporated municipalities, "UGAs," and "rural areas of more intense development" (<i>see RCW 36.70A.070</i>) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)	<p>Examples from Ecology:</p> <p>Urban Industrial, p. 15</p> <p>Urban Mixed, p. 18</p> <p>Also see Appendix B, Use Analysis, Chapter 3, p. 12.</p> <p>Local government: SMP includes two urban designations that meet high-intensity criteria – Urban Industrial, and Urban Mixed. These alternative designations allow more specificity for public access, view and amenity requirements for the mixed use areas.</p>	<p><i>Ecology:</i> Proposed alternative designations are consistent with the purposes and policies of the high-intensity criteria, as per WAC 173-26-211(4)(c).</p> <p><u>Ecology comment format:</u></p> <p>Compliant [or] Non-Compliant:</p> <p><i>Based on SMP -Guidelines.</i></p> <p>Requirement/Suggestion:</p> <p><i>(Optional) Additional comment distinguishing between a "Required" change that the City can expect Ecology to require as part of our final review, or a "suggested" change to improve readability or for further consideration by the City.</i></p>

SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST

<p>Acronyms and abbreviations</p> <p>comp plan: Comprehensive Plan CUP: Conditional Use Permit SMA: Shoreline Management Act, RCW 90.58 SMP: Shoreline Master Program SSWS: Shorelines of Statewide Significance WAC: Washington Administrative Code</p>	<p>For more information</p> <p>www.ecy.wa.gov/programs/sea/SMA/index.html</p> <p>Ecology SMA Policy Lead: Peter Skowlund: (360) 407-6522</p>
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<p>Prepared for: City of Kirkland (Jurisdiction Name)</p> <p>Name of Amendment: Comprehensive SMP Update</p> <p>Prepared by: Stacy Clauson, Contract Planner and Teresa Swan, City of Kirkland (Name) <i>Ecology comments: Joe Burcar July & August 2009, Final June 2010.</i></p> <p>Date: December 17, 2009/ /</p>		
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DOCUMENTATION OF SMP DEVELOPMENT PROCESS

Public involvement, communication, and coordination

<p>Documentation of public involvement throughout SMP development process. WAC 173-26-201(3)(b)(i) and WAC 173-26-090 and 100. For SSWS, see WAC 173-26-251(3)(a)</p>	<p>Attachment 11 contains a log that tracked public participation efforts by the City, including public meetings with the Planning Commission, Houghton Community Council and City Council, Open Houses, and focus group meetings, as well as different approaches used to provide notice of the planning process, including an e-mail list serv, web page, public notice boards, direct mailings, cable channel notices, and newspaper articles and briefs.</p> <p>The City has consulted with representatives from state and federal agencies on a broad range of topics, including piers and shoreline stabilization. In addition, the City has consulted existing federal biological evaluations on these issues (RGP-1, 3, and the Programmatic Biological Consultation for Shoreline Stabilization).</p> <p>The City has also incorporated recommendations from the Chinook Salmon Conservation Plan developed by the WRIA 8 Forum as a source of potential site specific projects and land use and public outreach recommendations.</p>	<p>City Comment: The City began the SMP update in August 2006. The City held 23 public meetings and 2 open houses along with a boat tour, a shoreline tour, workshops with property owners and meetings with individuals and contractors. In July 2009, an open house and 2 public hearings were held. A SMP web site was maintained along with a list serve and public notice boards on city parks. The public hearings were held open for comment until the end of August 2009. Public comments were received and considered through City Council review. See summary of public involvement in Attachment 15</p> <p>Attachment 11 contains a public involvement log of all meetings, public forums and hearings held, and forms of communications.</p> <p>Attachment 12 contains all public comments.</p> <p>Attachment 13 contains names and addresses of all participants (attended public meetings, spoke at meetings or hearings and/or submitted public comments).</p> <p>Ecology: Compliant:</p> <ul style="list-style-type: none"> At this stage in the SMP update (prior to local adoption), the City have complied and/or exceeded the basic requirements of the Guidelines related to Public Involvement
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<p>Documentation of communication with state agencies and affected Indian tribes throughout SMP development. WAC 173-26-201(3)(b)(ii) and (iii), WAC 173-26-100(3). For saltwater shorelines, see WAC 173-26-221(2)(c)(iii)(B). For SSWS, see WAC 173-26-251(3)(a).</p>	<p>See Public Involvement Log (Attachments 11), public comments (Attachment 12) and Letter to Tribe (Attachment 14)</p>	<p>City Comment:: The Muckleshoot Tribe and State Agencies have been sent notice of the planning process and invited to be a member of the City's e-mail list serve, which provides updates on public meetings and materials available for review.</p> <p>State agencies and the Muckleshoot Tribe have also been given opportunity to review the draft SMP in Summer, 2009.</p> <p>Ecology: Compliant:</p> <p><i>At this stage in the SMP update (prior to local adoption), the City have complied and/or exceeded the basic requirements of the Guidelines related to Public Involvement</i></p> <p>Suggestion:</p> <p><i>The City should submit documentation of past communication and are encouraged to continue to consult with the Tribe throughout the local adoption process.</i></p> <p>City Response: On July 15, 2009, the City sent a Notice of Availability of the draft SMP update to state agencies (Army Corps of Engineers, WDFW, CTED, Muckleshoot Tribe and many other agencies) with a web link to the draft SMP update. In addition, notice was sent to the jurisdictions of Redmond, Bellevue, Kenmore and King County.</p> <p>Staff consulted with the following agencies on numerous occasions over the course of the SMP update:</p> <ul style="list-style-type: none"> • Joe Burcar, Peter Skowland, Geoff Talent and Richard Robohm at Ecology on a wide range of issues • Kurt Fresh at NOAA (scientific studies) • Roger Tabor at USFWS (scientific studies) • Alisa Bieber and Stewart Reinbold at WDFW (overwater condominiums, milfoil control methods and pier regulations) • Tom Sibley at NOAA (pier regulations, RGP-3 and shoreline stabilization), • Marcy Reed at Corps (shoreline stabilization and overwater condominiums) • Tom Sibley at NOAA (pier
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		<p>regulations, RGP-3 and shoreline stabilization)</p> <p>Comments were received from WDFW on July 23, 2009 (email) and from the Muckleshoot Tribe on August 17, 2009 (letter). The City has responded to these agencies on December 17, 2009 (see Attachment 14).</p>
<p>Demonstration that critical areas regulations for shorelines are based on the SMA and the guidelines, and are at least equal to the current level of protection provided by the currently adopted critical areas ordinance. WAC 173-26-221(2)(b)(ii),(iii) and (c).</p>	<p>Section 83.490 through 83.530 address critical area regulations (see Attachment 6).</p>	<p>City Comments: The draft regulations require use of the Washington State Wetland Rating System for Western Washington. The wetland requirements incorporate the buffer requirements that King County has adopted to regulate wetlands within their Urban Growth Area (UGA). The standards for compensatory mitigation utilize the mitigation ratios specified in the Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10 guidance as contained in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance.</p> <p>Attachment 10 contains a map that shows the extent of wetland buffers based upon current wetland regulations as compared to that with the new buffers. This map demonstrates that the proposed buffers provide equivalent or more protection for wetlands within shoreline jurisdiction.</p> <p>The standards for geologically hazardous areas and flood hazard reduction have been included in Attachment 6.</p> <p>Ecology: (Generally) Compliant:</p> <p><i>Reference previous comments to the City specific to wetlands. For Streams, Geologic Hazardous Areas and Flood areas see specific Ecology discussion under the Critical Areas section below.</i></p> <p>Question/Discussion:</p> <ul style="list-style-type: none"> • <i>All of the Critical Areas sections provide "Reasonable Use Exemptions", which is not consistent with the SMP Guidelines. Generally these proposals are reviewed under a</i>

		<p><i>shoreline variance.</i></p> <p>City Response: In Section 83.500 and 83.510 for critical area regulations, "Reasonable Use Exemptions" have been omitted. These proposals are now reviewed under a shoreline variance.</p>
<p>Documentation of process to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. See "State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property." WAC 173-26-186(5).</p>	<p>The regulations contain several provisions that have been intended to grant relief from specific SMP provisions, including (see Attachment 6):</p> <ul style="list-style-type: none"> - The Variance provisions contained within Zoning Code Chapter 141. - The Nonconformance Standards contained within Section 83.550. - The Wetland Modification and Buffer Modification provisions contained in Section 83.500. - The Stream Buffer Modification provisions contained within Section 83.510 	<p>Ecology: Compliant: (See City's response below)</p> <p><i>As referenced above, the Critical Areas sections of the SMP all provide a "Reasonable Use Exemption" that is not consistent with the Guidelines.</i></p> <p><i>In reference to wetlands, Ecology has discussed this issue with the City and understands the application of the "Reasonable Use Exemption" to be limited to a small number of existing lots located within the Natural shoreline designation. <u>Section 83.500.6 (Permit Process) provides administrative flexibility to vary buffer widths up to 25% before requiring a shoreline Variance.</u> However, all Reasonable Use determinations are exempted from a variance, which is not consistent with the Guidelines. Section 83.500.10 suggests that Reasonable Use Exemptions are limited to "detached dwelling units in the Natural shoreline environment". <u>It is not clear, if the Reasonable Use Exemption is limited to the Natural environment or available anywhere within the City's shoreline jurisdiction?</u></i></p> <p>Discussion/Suggestion: The City have a few options to consider in relation to the inconsistency between the Guideline requirement for a variance and preserving the Reasonable Use Exemption for constrained properties:</p> <p>Option 1: Require a shoreline variance for any departure from SMP dimensional standards, but also include the City's Reasonable Use standards/criteria as additional review criteria under which the variance is reviewed.</p> <p>Option 2: Provide more specific geographic distinction of potential areas where the Reasonable Use Exemption criteria would be considered. Therefore, limiting the scope of allowed deviation from SMP standards to a defined number of lots for which build-out potential then needs to be considered within</p>

		<p><i>the Cumulative Impact Assessment and shown to maintain No Net Loss of Ecological Function. <u>Note:</u> under this option the City would either need to demonstrate that application of Reasonable Use consideration would be limited to specific lots based on SMP regulatory thresholds or identify geographic limits within the SMP for reasonable use criteria consideration. <u>In other words, the City would essentially need to pre-authorize changes to critical area dimensional standards within a defined area (or defined lot configuration), as opposed to 'exempting' or not applying critical area or SMP standards to constrained lots.</u></i></p> <p>City Response: "Reasonable Use Exemptions" have been omitted in Sections 83.500.12 and 83.510.8 for the critical area regulations. These proposals are now reviewed under a shoreline variance.</p>
<p>Final submittal includes:</p> <ul style="list-style-type: none"> evidence of local government approval (or a locally approved "statement of intent to adopt"); new and/or amendatory text, environment designation maps (with boundary descriptions and justification for changes based on existing development patterns, biophysical capabilities and limitations, and the goals and aspirations of the local citizenry); a summary of the proposal together with staff reports and supporting materials; evidence of SEPA compliance; copies of all comments received with names and addresses. WAC 173-26-110 <p>Submittal must include clear identification and transmittal of all provisions that make up the SMP. <i>This checklist, if complete, meets this requirement.</i> WAC 173-26-210(3)(a) and (h).</p>	<p>For purposes of DOE review of the City's draft SMP, the SMP Package includes the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Checklist and Attachments: <input type="checkbox"/> Adopting Resolution of Intent to Adopt (Attachment 1) <input type="checkbox"/> Inventory (Attachment 2) <input type="checkbox"/> Use Analysis (Attachment 3) <input type="checkbox"/> Goals and Policies (Attachment 4) <input type="checkbox"/> Shoreline Environment Designation Map (Attachment 5) <input type="checkbox"/> Zoning Code, Chapter 83 and Chapter 141, Regulations (Attachment 6) <input type="checkbox"/> Restoration Plan (Attachment 7) <input type="checkbox"/> Cumulative Impact Analysis (Attachment 8) <input type="checkbox"/> Shoreline Environment Designation 	<p>Ecology: TBD after local adoption and formal submittal to Ecology.</p> <p>City Response: all documents have been provided with final submittal.</p>

	<p>Report (Attachment 9)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Wetland Buffer Comparison Map (Attachment 10) <input type="checkbox"/> Public Involvement Documentation Log (see Attachment 11) <input type="checkbox"/> Copies of all public comments submitted with a list of names and addresses in spreadsheet (see Attachments 12 and 13) <input type="checkbox"/> Responses to Muckleshoot Tribe and WDFW comment letters (see Attachment 14) <input type="checkbox"/> Summary of amendments, scope and intent of update and record of meetings (Attachment 15) 	
Shoreline Inventory		
<p>Inventory of existing data and materials. WAC 173-26-201(3)(c)(i) through (x).</p> <p>For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(A)&(B).</p>	<p>Final Shoreline Analysis Report Including Shoreline Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline, dated 1 December 2006 (see Attachment 2)</p>	<p>Ecology: Compliant:</p> <p><i>See previous comments from Ecology to the City dated October 4, 2006.</i></p>
Shoreline Analysis		
<p>Characterization of shoreline ecosystems and their associated ecological functions that:</p> <ul style="list-style-type: none"> identifies ecosystem-wide processes and ecological functions; assesses ecosystem-wide processes to determine their relationship to ecological functions; identifies specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes. WAC 173-26-201(3)(d)(i)(A). <p>Demonstration of how characterization was used to prepare master program policies and regulations that achieve no net loss of ecological functions necessary to support shoreline resources and to plan for restoration of impaired functions. WAC 173-26-201(3)(d)(i)(E).</p> <p>For vegetation, see WAC 173-26-221(5). For jurisdictions with critical saltwater habitats, see WAC 173-26-221(2)(c)(iii)(B).</p> <p>Description of data gaps, assumptions made and risks to ecological functions associated with SMP provisions. WAC 173-26-201(2)(a)</p> <p>Characterization includes maps of inventory information at appropriate scale. WAC 173-26-201(3)(c)</p>	<p>Final Shoreline Analysis Report Including Shoreline Inventory and Characterization for the city's Lake Washington Shoreline, dated 1 December 2006 (see Attachment 2)</p> <p>Section 5.0 of Final Shoreline Analysis Report contains an analysis of ecological functions and ecosystem-wide processes.</p> <p>Section 4.0 of the Final Shoreline Analysis Report identifies specific measures to protect and/or restore ecological functions and ecosystem-wide processes. In addition, Section 5.2 specifically addresses the effects of shoreline modifications on aquatic organisms and their habitats. This information was used as a basis for developing shoreline regulations for</p>	<p>City Comment: The characterization was used to document baseline conditions and set the stage for protecting and restoring ecological functions. Information from the characterization was used to determine appropriate shoreline environment designations (see Attachment 9).</p> <p>Ecology: Compliant:</p> <p><i>See previous comments from Ecology to the City dated October 4, 2006.</i></p>

	<p>shoreline modifications.</p> <p>The ecological functions and ecosystem-wide processes provided by vegetation are addressed throughout the Final Shoreline Analysis Report, including in Table 18.</p> <p>Attachment 9 contains a report demonstrating how the characterization was used to establish the shoreline environment designations.</p> <p>Inventory Maps are contained in Appendix E of the Final Shoreline Analysis Report.</p>	
<p>Use analysis estimating future demand for shoreline space and potential use conflicts based on characterization of current shoreline use patterns and projected trends. Evidence that SMP ensures adequate shoreline space for projected shoreline preferred uses. Public access needs and opportunities within the jurisdiction are identified. Projections of regional economic need guide the designation of "high-intensity" shoreline. WAC 173-26-201(3)(d)(ii) & (v); WAC 173-26-211(5)(d)(ii)(B)</p> <p>For SMPs that allow mining, demonstration that siting of mines is consistent with requirements of WAC 173-26-241(3)(h)(i).</p> <p>For SSWS:</p> <ul style="list-style-type: none"> evidence that SMP preserves adequate shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance (e.g., commercial shellfish beds and navigable harbors) based on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies. Evidence that public access and recreation requirements are based on demand projections that take into account activities of state agencies and interests of the citizens to visit public shorelines with special scenic qualities or cultural or recreational opportunities. WAC 173-26-251(3)(c)(ii) & (iii) Optimum implementation directives incorporated into comp plan and development regulations. WAC 173-26-251(2) & (3)(e) <p>For GMA jurisdictions, SMP recreational provisions are consistent with growth projections and level-of-service standards contained in comp plan. WAC 173-26-241(3)(i)</p>	<p>Use Analysis Component of the Shoreline Master Program for the City of Kirkland, included as Attachment 3.</p> <p>Section 83.170 Shoreline Environments, Permitted Uses and Activities Chart (see Attachment 6).</p>	<p>Compliant - After a final review(June 2010), the analysis appears consistent with Guideline requirements.</p> <p>City Comment: The Use Analysis appears to be consistent with the Guidelines.</p>
<p>Restoration plan that:</p> <ul style="list-style-type: none"> identifies degraded areas, impaired ecological functions, and potential restoration sites; Establishes restoration goals and priorities, including SMP goals and policies that provide for restoration of impaired ecological functions; Identifies existing restoration projects and programs; Identifies additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources sets timelines and benchmarks for implementing restoration 	<p>Shoreline Restoration Plan Component of the Shoreline Master Program for the City of Kirkland, included as Attachment .7</p>	<p>Compliant - After a final review(June 2010), the Restoration Plan appears generally consistent with Guideline requirements..</p> <p>City Comment: The Restoration Plan appears to be consistent with the Guidelines.</p>

<p>projects and programs; provides mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals. WAC 173-26-186(8)(c); 201(2)(c)&(f)</p> <p>For critical freshwater habitats: incentives to restore water connections impeded by previous development. WAC 173-26-221(2)(c)(iv)(C)(III).</p> <p>For SSWS, identification of where natural resources of statewide importance are being diminished over time, and master programs provisions that contribute to the restoration of those resources. WAC 173-26-251(3)(b)</p>		
<p>Evidence that each environment designation is consistent with guidelines criteria [WAC 173-26-211(5)], as well as existing use pattern, the biological and physical character of the shoreline and the goals and aspirations of the community. WAC 173-26-211(2)(a). WAC 173-26-110(3)</p> <p>Lands designated as “forest lands of long-term significance” under RCW 36.70A.170 are designated either natural or rural conservancy shoreline environment designations. WAC 173-26-241(3)(e).</p> <p>For SSWS, demonstration that environment designation policies, boundaries, and use provisions implement SMA preferred use policies of RCW 90.58.020(1) through (7). WAC 173-26-251(3)(c)</p>	<p>Attachment 5 contains the Shoreline Environment Designation maps illustrating the six (6) shoreline environments</p> <p>Attachment 9 describes how the information gathered from the shoreline inventory was analyzed for consistency with the guidelines criteria, as well as existing use pattern and biological and physical character of the community.</p> <p>Section 83.30 of Attachment 6.</p>	<p>City Comment: Kirkland does not contain lands designated as "forest lands of long-term significance".</p> <p>The environment designations respond to the SMA preferred use policies by 1) preserving 58% of the shoreline area in the Natural environment, 2) preserving 14% of the shoreline frontage for public access in the Urban Conservancy shoreline environment, 3) permitting water-dependent recreational uses and water-related recreational uses in appropriate shoreline environments, depending on the intensity and potential impacts of the use, as well as the characteristics of the shoreline environment.</p> <p>Ecology: <i>After a preliminary review, the Environment Designations appear generally appropriate and consistent with the Guidelines. Ecology needs to follow-up with a more detailed review of the document after discussion with the City on the geographic scope of allowed Reasonable Use Exemptions (see discussion under Critical Areas) and prior to the City Councils involvement with the SMP update.</i></p> <p>City Response: See comment above under Critical Areas. The Reasonable Use Exemption provisions have been replaced with a shoreline variance review process.</p> <p>With removal of the Reasonable Use Exemption, it appears that the environmental designations are consistent with the Guidelines.</p>
<p>Assessment of how proposed policies and regulations cause, avoid, minimize and mitigate cumulative impacts to achieve no net loss policy. Include policies and regulations that address platting or subdividing of property, laying of utilities, and mapping of streets that establish a pattern for future development.</p>	<p>Shoreline Cumulative Impact Analysis for the City of Kirkland Shoreline Master Program (Attachment 8).</p>	<p>Compliant - <i>After a final review(June 2010), the Cumulative Impact Analysis appears consistent with Guideline requirements.</i></p>

<p>Evaluation addresses:</p> <p>(i) <i>current circumstances</i> affecting the shorelines and relevant natural processes;</p> <p>(ii) reasonably <i>foreseeable future development</i> and use of the shoreline (including impacts from unregulated activities, exempt development, and other incremental impacts); and</p> <p>(iii) <i>beneficial effects</i> of any established regulatory programs under other local, state, and federal laws. WAC 173-26-201(3)(d)(iii) and WAC 173-26-186(8)(d)</p> <p>For jurisdictions with critical saltwater habitats, identification of methods for monitoring conditions and adapting management practices to new information. WAC 173-26-221(2)(c)(iii)(B). For SSWS, evidence that standards ensuring protection of ecological resources of statewide importance consider cumulative impacts of permitted development. WAC 173-26-251(3)(d)(i)</p>		<p>City Comment: With removal of the Reasonable Use Exemption and other changes made to the SMP update as noted in this checklist, the results of the Cumulative Impact Analysis appear to be consistent with the Guidelines.</p>
<p>SMP CONTENTS</p>		
<p>Any goals adopted as part of the SMP are consistent with the SMA. (<i>Note: Goal statements are not required.</i>)</p>	<p>Goals are contained in a new Shoreline Chapter that will be added to the City of Kirkland's Comprehensive Plan (see Attachment 4).</p>	<p>Ecology: Compliant:</p> <p><i>Ecology has been monitoring the changes to shoreline management goals as they have evolved through the local update process. The goals identified in the draft SMP appear to generally reflect the framework of the SMA and appear based on public input received at SMP meetings/workshops.</i></p>
<p>Policies (A) are consistent with guidelines and policies of the SMA; (B) address elements of RCW 90.58.100; and (C) include policies for environment designations, accompanied by a map or physical description of designation boundaries in sufficient detail to compare with comprehensive plan land use designations. (D) are consistent with constitutional and other legal limitations on regulation of private property. WAC 173-26-191(2)(a)(i)</p> <p>SMP implements preferred use policies of the SMA. WAC 173-26-201(2)(d)</p>		<p>Ecology: Compliant:</p> <p><i>The SMP Policies referenced by the City appear consistent with Guideline requirements.</i></p> <p>Suggestion:</p> <ul style="list-style-type: none"> <i>Because the policies will be separated from the Regulations listed in Chapter 83 (different section of the SMP), it is <u>suggested</u> that the City provide a cross reference to ensure 'policy intent' is not lost through implementation of the SMP.</i> <p>City Response: Both the City's Shoreline Chapter in the Comprehensive Plan containing the policies (see Introduction section) and Chapter 83 containing the regulations (see Section 83.40) provide a cross reference.</p>

<p>Regulations: (A) are sufficient in scope and detail to ensure the implementation of SMA, SMP guidelines, and SMP policies; (B) include environment designation regulations; (C) include general regulations, use regulations that address issues of concern in regard to specific uses, and shoreline modification regulations; and, (D) are consistent with constitutional and other legal limitations on the regulation of private property. WAC 173-26-191(2)(a)(ii)</p>	<p>Regulations are contained in the following provisions:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Chapter 83 (see Attachment 6), which includes: <p>Authority and Purpose</p> <p>Definitions</p> <p>Shoreline Environment Designations and Shorelines of Statewide Significance</p> <p>Uses and Activities in Shoreline Environment</p> <p>Use Specific Regulations</p> <p>Shoreline Modification Regulations</p> <p>General Regulations</p> <ul style="list-style-type: none"> <input type="checkbox"/> Administrative Provisions (Chpt 141 in Attachment 6) 	<p>Ecology: Compliant: See City Response Below (June 2010)</p> <p><i>Even though the use matrix provided in section 83.170 lists Agriculture, Aquaculture, Forest Practices and Mining as prohibited, all uses that are listed in WAC 173-26-241(Agriculture, Aquaculture, Boating Facilities, Commercial, Forest Practice, Industry, In-Stream Structure, Recreation, Residential, Transportation, Utilities), 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.</i></p> <p>Suggestion:</p> <ul style="list-style-type: none"> • <i>The City should consider either, provide an additional section to section 83 listing all the prohibited uses including definitions for each use, or insert each individual SMP use (based on WAC 173-26-241), for which each use should be defined (consistent w/Guidelines) and either listed as prohibited, conditional or permitted with appropriate development standards.</i> <p>City Response: Definitions have been added to Section 83.80 for the following that were not previously defined: Boating facilities, Commercial, Forest Practice, Industrial Uses, In-Stream Structure, Recreational Use, and Residential Use. These uses are addressed in the use table and development standards.</p>
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ENVIRONMENT DESIGNATIONS		
<p>Each environment designation includes: Purpose statements, classification criteria, management policies, and regulations (types of shoreline uses permitted, conditionally permitted, and prohibited; building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards). WAC 173-26-211(2)(4).</p>	<p>Management Policies are contained in Shoreline Goals and Policies (see Attachment 4).</p> <p>Purpose statement and designation criteria contained in Section 83.100-150 of Attachment 6.</p> <p>Section 83.170 contained the Shoreline Environments, Permitted Uses and Activities Chart outlining the types of shoreline uses permitted, conditionally permitted and prohibited</p> <p>Section 83.190 addresses shoreline development standards, including building height, lot coverage, shoreline setback, and density.</p> <p>Other miscellaneous provisions are contained in the General Regulations (see Sections 83.360-550)</p>	<p>Ecology: Compliant:</p> <p><i>The SMP Environment Designations appear generally consistent with Guideline requirements. See specific comments below for each specific Environment Designation.</i></p>
<p>An up-to-date map accurately depicting environment designation boundaries on a map. If necessary, include common boundary descriptions. WAC 173-26-211(2)(b); WAC 173-26-110(3);</p>	<p>See Attachment 5.</p>	<p>City Comments: Provisions addressing interpretation of map are contained in Section 83.90 (see Attachment 6).</p>
<p>Statement that undesigned shorelines are automatically assigned a conservancy environment designation. WAC 173-26-211(2)(e).</p>	<p>Section 83.90 of Attachment 6 addresses undesigned properties</p>	<p>Ecology: Compliant:</p> <p><i>The referenced section appears consistent with this Guideline requirement.</i></p>
Natural environment. WAC 173-26-211(5)(a)		
<p>Designation criteria: Shorelines that are ecologically intact and performing functions that could be damaged by human activity, of particular scientific or educational interest, or unable to support human development without posing a safety threat. WAC 173-26-211(5)(a)(iii)</p>	<p>Policy SMP-2.1 in Attachment 4 addresses this designation criteria.</p> <p>Section 83.100 of Attachment 6.</p> <p>Attachment 9 contains an analysis of how this designation criterion was implemented when assigning proposed shoreline designations.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced attachment provides sufficient information illustrating appropriate designation of Natural shoreline areas.</i></p>

<p>Prohibition on new:</p> <p>uses that would substantially degrade ecological functions or natural character of shoreline. WAC 173-26-211(5)(a)(ii)(A)</p> <p>Commercial uses; industrial uses; nonwater oriented recreation; roads, utility corridors, and parking areas. WAC 173-26-211(5)(a)(ii)(B)</p> <p>development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions. WAC 173-26-211(5)(a)(ii)(G)</p> <p>subdivision of property in a configuration that will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. WAC 173-26-211(5)(a)(ii)(G)</p>	<p>Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart (see Attachment 6).</p> <p>Most of the Natural shoreline environment consists of streams and wetlands that have additional protection under Section 83.500 and SMP 83.510 (see Attachment 6).</p> <p>Section 83.490.3 addresses removal of significant trees within critical areas, including wetlands and streams (see Attachment 6).</p>	<p>Ecology: Compliant:</p> <p>Note: See comments above (Regulations) pertaining to section 83.170 and prohibited uses (i.e. all SMA uses listed in WAC 173-26-241 need to be defined then prohibit within the SMP).</p> <p>City Response: See earlier comments. All uses are now defined and listed in the SMP.</p>
<p>For single family residential development: limits on density and intensity to protect ecological functions, and requirement for CUP. WAC 173-26-211(5)(a)(ii)(C)</p>	<p>Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart identifies a Conditional Use process for single family development in the Natural Environment. Further, footnote 20 indicates that within the Natural shoreline environment, land divisions may not create any new lot that would be wholly contained within shoreland area in this shoreline environment.</p>	<p>Ecology: Compliant:</p> <p>Note: See comments under "Critical Areas" in reference to Reasonable Use Exemptions. Independent of the Reasonable Use issue to discuss with the City, the referenced SMP sections appear consistent with this Guideline requirement.</p> <p>City Response: See City response in Critical Area section. Reasonable Use Exemption has been omitted and replaced with shoreline variance.</p>
<p>For commercial forestry: requirement for CUP, requirement to follow conditions of the State Forest Practices Act. WAC 173-26-211(5)(a)(ii)(D)</p>	<p>Forest Practices not permitted (see Section 83.170).</p>	<p>Ecology: Compliant:</p> <p>Note: See comments under "Forest Practices" below (i.e. define use then prohibit the use).</p> <p>City Response: Forest Practices is now defined and listed in the SMP.</p>
<p>For agriculture: low intensity use allowed if subject to appropriate limits or conditions to assure that the use does not expand or practices don't conflict with purpose of the designation. WAC 173-26-211(5)(a)(ii)(E)</p>	<p>Agriculture not permitted (see Section 83.170).</p>	<p>Ecology: Compliant:</p> <p>Note: See comments under "Agriculture" in sections below.</p> <p>City Response: Agriculture is now defined and listed in the SMP.</p>
<p>Low intensity public uses such as scientific, historical, cultural, educational research uses, and water-oriented recreational access allowed if ecological impacts are avoided. WAC 173-26-211(5)(a)(ii)(F)</p>	<p>Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart</p> <p>Most of the Natural environment consists of streams and wetlands, which have additional protections under Section 83.500.12 and SMP 83.510.</p>	<p>City comment: See use listings for boat launch (non-motorized), public access facility, etc.</p> <p>Ecology: Compliant:</p> <p>The Guidelines allow for water-oriented recreational access. Therefore, launching of non-motorized boats seems appropriate.</p>

Rural conservancy. WAC 173-26-211(5)(b)		
Designation criteria: areas outside municipalities or UGAs with: (A) low-intensity, resource-based uses, (B) low-intensity residential uses, (C) environmental limitations such as steep banks or floodplains, (D) high recreational or cultural value, or (E) low-intensity water-dependent uses. WAC 173-26-211(5)(b)(iii)	Not applicable.	
Restrictions on use and development that would degrade or permanently deplete resources. Water-dependent and water-enjoyment recreation facilities are preferred uses. Low intensity, water-oriented commercial and industrial uses limited to areas where those uses have located in the past or at sites that possess conditions and services to support the development. WAC 173-26-211(5)(b)(ii)(A) and (B) For SMPs that allow mining, see WAC 173-26-241(3)(h).	Not applicable.	
Prohibition on new structural shoreline stabilization and flood control works except where there is documented need to protect an existing primary structure (provided mitigation is applied) or to protect ecological functions. WAC 173-26-211(5)(b)(ii)(C).	Not applicable.	
Development standards for residential use that preserve existing character of the shoreline. Density, lot coverage, vegetation conservation and other provisions that ensure no net loss of shoreline ecological functions. Density or lot coverage limited to a maximum of ten percent total impervious surface area within the lot or parcel, or alternative standard that maintains the existing hydrologic character of the shoreline. (May include provisions allowing greater lot coverage for lots legally created prior to the adoption of a master program prepared under these guidelines, if lot coverage is minimized and vegetation is conserved.) WAC 173-26-211(5)(b)(ii)(D).	Not applicable.	
Aquatic. WAC 173-26-211(5)(c)		
Designation criteria: Areas waterward of the ordinary high-water mark (OHWM). WAC 173-26-211(5)(c)(iii)	Policy SMP - 2.6 (see Attachment 4). Section 83.150 (see Attachment 6). Attachment 9 contains an analysis of how this designation criteria was implemented when assigning proposed shoreline designations.	Ecology: Compliant: <i>The referenced sections of the SMP appear consistent with these Guideline standards.</i>

<p>New over-water structures:</p> <p>allowed only for water-dependent uses, public access, or ecological restoration. WAC 173-26-211(5)(c)(ii)(A) limited to the minimum necessary to support the structure's intended use. WAC 173-26-211(5)(c)(ii)(B)</p>	<p>See the following sections in Attachment 6:</p> <p>Section 83.170.</p> <p>Section 83.200.1</p> <p>Sections 83.270, 280, 290 contain dimensional standards.</p> <p>Other miscellaneous standards, such as Section 83.200.1, 83.220(4), etc.</p>	<p>City Comment: Generally, new or expanded over water structures are prohibited, with the exception of water-dependent structures, such as piers and docks, public access boardwalks, etc.</p> <p>Ecology: Compliant:</p> <p><i>The SMP sections referenced by the City appear consistent with these Guideline standards related to new overwater structures. See specific comments on regulations under "Piers/Docks" and "Boating Facilities".</i></p>
<p>Multiple use of over-water facilities encouraged. WAC 173-26-211(5)(c)(ii)(C)</p>	<p>Policy SMP - 3.8 (see Attachment 4)</p> <p>Section 83.270.1.b (see Attachment 6)</p> <p>See provisions addressing tour boat facilities, water taxi, etc. in Section 83.170 of Attachment 6 that require these uses to be co-located at marinas.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Location and design of all developments and uses required to:</p> <p>minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration. WAC 173-26-211(5)(c)(ii)(D)</p> <p>prevent water quality degradation and alteration of natural hydrographic conditions. WAC 173-26-211(5)(c)(ii)(F)</p>	<p>Policy SMP - 2.6 (see Attachment 4)</p> <p>See the following sections in Attachment 6: Sections 83.260 through 350.</p> <p>Section 83.430 addresses measures to be taken to minimize impacts from in-water construction activity.</p> <p>Section 83.410.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Uses that adversely impact ecological functions of critical saltwater and freshwater habitats limited (except where necessary for other SMA objectives, and then only when their impacts are mitigated). WAC 173-26-211(5)(c)(ii)(E)</p>	<p>See the following sections in Attachment 6: Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart</p> <p>Section 83.360</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>

High-intensity. WAC 173-26-211(5)(d)		
<p>Designation criteria: Areas within incorporated municipalities, "UGAs," and "rural areas of more intense development" (see <i>RCW 36.70A.070</i>) that currently support or are planned for high-intensity water-dependent uses. WAC 173-26-211(5)(d)(iii)</p>	<p>Policy SMP - 2.5 of Attachment 4</p> <p>Section 83.140 of Attachment 6.</p> <p>Attachment 12 contains an analysis of how this designation criteria was implemented when assigning proposed shoreline designations.</p>	<p>City Comment: Termed "Urban Mixed" in SMP documents.</p> <p>Ecology: Compliant:</p> <p><i>The referenced sections appear consistent with these Guideline standards.</i></p>
<p>Priority given first to water-dependent uses, then to water-related and water-enjoyment uses. New non-water oriented uses prohibited except as part of mixed use developments, or where they do not conflict with or limit opportunities for water oriented uses or where there is no direct access to the shoreline. WAC 173-26-211(5)(d)(ii)(A)</p>	<p>Policy SMP - 2.5 of Attachment 4.</p> <p>Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart (see Attachment 6)</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Full use of existing urban areas required before expansion of intensive development allowed. WAC 173-26-211(5)(d)(ii)(B)</p>	<p>Attachment 5 contains the Shoreline Environment Designation maps illustrating proposed shoreline environments</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>New development does not cause net loss of shoreline ecological functions. Environmental cleanup and restoration of the shoreline to comply with relevant state and federal laws assured. WAC 173-26-211(5)(d)(ii)(C)</p>	<p>See the following sections in Attachment 6: Section 83.360.</p> <p>Section 83.370.</p> <p>Section 83.480.</p> <p>Sections 83.210.1, 3, 4 and 83.490 include provisions addressing proper storage and cleanup of hazardous materials.</p> <p>Policy SMP - 15.3 (see Attachment 4)</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Visual and physical public access required where feasible. Sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers to achieve aesthetic objectives. WAC 173-26-211(5)(d)(ii)(D) and (E)</p>	<p>See the following sections in Attachment 6: Section 83.30, 400, 410, 420, 440, 450, and 460.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>

Urban conservancy. WAC 173-26-211(5)(e)		
<p>Designation criteria: Areas within incorporated municipalities, UGAs, and rural areas of more intense development that are not suitable for water-dependent uses and that are either suitable for water-related or water-enjoyment uses, are flood plains, have potential for ecological restoration, retain ecological functions, or have potential for development that incorporates ecological restoration. WAC 173-26-211(5)(e)(iii)</p>	<p>Policy SMP - 2.2 (see Attachment 4).</p> <p>Section 83.110 (see Attachment 6).</p> <p>Attachment 9 contains an analysis of how this designation criteria was implemented when assigning proposed shoreline designations.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Allowed uses are primarily those that preserve natural character of area, promote preservation of open space, floodplain or sensitive lands, or appropriate restoration. WAC 173-26-211(5)(e)(ii)(A)</p> <p>Priority given to water-oriented uses over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses given highest priority. WAC 173-26-211(5)(e)(ii)(D)</p> <p>For SMPs that allow mining, see WAC 173-26-241(3)(h).</p>	<p>Policy SMP - 2.2 (see Attachment 4)</p> <p>Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart (see Attachment 6).</p>	<p>Ecology: Compliant:</p> <p><i>The Management Policies appear consistent with the uses allowed within this shoreline environment.</i></p>
<p>Standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications that ensure new development does not result in a net loss of shoreline ecological functions or degrade other shoreline values. WAC 173-26-211(5)(e)(ii)(B)</p>	<p>See the following sections in Attachment 6: Section 83.300, 400, 480, and 83.260-350.</p>	<p>Ecology: Compliant:</p> <p><i>Ecology has provided the City with detailed comments related to shoreline stabilization suggesting some clarifications to the draft SMP, which is generally compliant with these Guideline requirements.</i></p> <p>City Response: The City has made the changes as recommended by Ecology.</p>
<p>Public access and recreation required where feasible and ecological impacts are mitigated. WAC 173-26-211(5)(e)(ii)(C)</p>	<p>See the following sections in Attachment 6: Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart (see use listings for public access boardwalk, public access facility, etc.)</p> <p>Section 83.420.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>

Shoreline residential. WAC 173-26-211(5)(f)		
<p>Designation criteria: Areas within incorporated municipalities, Urban Growth Areas (UGAs), “rural areas of more intense development,” and “master planned resorts” (see RCW 36.70A.360) that are predominantly residential development or planned and platted for residential development. WAC 173-26-211(5)(f)(iii)</p>	<p>Policy SMP - 2.3 and 2.4 (see Attachment 4).</p> <p>Section 83.120 and 130 (see Attachment 6).</p> <p>Attachment 12 contains an analysis of how this designation criteria was implemented when assigning proposed shoreline designations.</p>	<p>City Comment: Two residential designations provided: Residential - L and Residential - M/H</p> <p>Ecology: Compliant:</p> <p><i>The City has the option to create sub-residential designations based on distinguishing characteristics between these two areas. Therefore the referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Standards for density or minimum frontage width, setbacks, buffers, shoreline stabilization, critical areas protection, and water quality protection assure no net loss of ecological function. WAC 173-26-211(5)(f)(ii)(A)</p>	<p>See the following sections in Attachment 6: Sections 83.180, 300, and 490-530.</p> <p>Section 83.360.</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Multifamily and multi-lot residential and recreational developments provide public access and joint use for community recreational facilities. WAC 173-26-211(5)(f)(ii) (B)</p>	<p>See the following sections in Attachment 6: Section 83.420. Section 83.280.</p>	<p>Ecology: Compliant:</p> <p><i>Ecology has provided the City with recommendations to revise this section to clarify the appropriate application of public access requirements to multi-family development.</i></p> <p>City Response: Section 83.420 concerning public access has been revised to require public access for 5 or more lots in Residential- L. Multi-family uses already are required to provide public access.</p>
<p>Access, utilities, and public services required to be available and adequate to serve existing needs and/or planned future development. WAC 173-26-211(5)(f)(ii)(C)</p>	<p>Policy SMP - 2.3 2.4 (see Attachment 4).</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections of the SMP appear consistent with these Guideline standards.</i></p>
<p>Commercial development limited to water-oriented uses. WAC 173-26-211(5)(f)(ii)(D)</p>	<p>Section 83.170 - Shoreline Environments, Permitted Uses and Activities Chart (see Attachment 6).</p>	<p>City Comment: One exception: SMP allows retail use located on east side of Lake Washington Blvd, between NE 60th Street and 7th Ave S, where properties are only partially located within shoreline jurisdiction in order to ensure consistency with adopted zoning regulations for this area.</p> <p>Ecology: Compliant:</p>

GENERAL POLICIES AND REGULATIONS		
Archaeological and Historical Resources. WAC 173-26-221(1)		
Developers and property owners required to stop work and notify the local government, state office of archaeology and historic preservation and affected Indian tribes if archaeological resources are uncovered during excavation. WAC 173-26-221(1)(c)(i)	Historic, cultural, scientific, and education elements are addressed in Goal 27 and its related policies (see Attachment 4). Section 83.540 (see Attachment 6).	Ecology: Compliant: <i>Section 83.540, standard 2(b) appears consistent with this Guideline requirement.</i>
Permits issued in areas documented to contain archaeological resources require site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes WAC 173-26-221(1)(c)(ii)	Section 83.540 (see Attachment 6).	Ecology: Compliant: <i>Section 83.540, standard 2(a) appears consistent with this Guideline requirement.</i>
Critical areas. WAC 173-26-221(2)		
<p>Policies and regulations for critical areas (designated under GMA) located within shorelines of the state: (i) are consistent with SMP guidelines, and (ii) provide a level of protection to critical areas within the shoreline area that is at least equal to that provided by the local government's existing critical area regulations adopted pursuant to the GMA for comparable areas other than shorelines. WAC 173-26-221(2)(a) and (c)</p> <p>Planning objectives are for protection <i>and restoration</i> of degraded ecological functions and ecosystem-wide processes.</p> <p>Regulatory provisions <i>protect</i> existing ecological functions and ecosystem-wide processes. WAC 173-26-221(2)(b)(iv)</p> <p>Critical area provisions promote human uses and values, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions. WAC 173-26-221(2)(b)(v)</p>	<p>Policies addressing critical areas are contained in Goal 13 and its related policies (see Attachment 4).</p> <p>See the following sections in Attachment 6: Sections 83.490 through 530.</p> <p>Section 83.500.12.</p>	<p>Ecology: (Generally) Compliant: <i>Reference previous comments to the City specific to wetlands. For Streams, Geologic Hazardous Areas and Flood areas see specific Ecology discussion under individual Critical Areas.</i></p> <p><i>All of the Critical Areas sections provide "Reasonable Use Exemptions", which is not consistent with the SMP Guidelines. Generally these proposals are reviewed under a shoreline variance.</i></p> <p><u><i>Section 83.500.6 (Permit Process) provides administrative flexibility to vary buffer widths up to 25% before requiring a shoreline Variance. However, all Reasonable Use determinations are exempted from a variance, which is not consistent with the Guidelines.</i></u></p> <p>Discussion/Suggestion: <i>The City has a few options to consider in relation to the inconsistency between the Guideline requirement for a variance and preserving the Reasonable Use Exemption for constrained properties:</i></p> <ul style="list-style-type: none"> • <i>Option 1: Require a shoreline variance for any departure from SMP dimensional standards, but also include the City's Reasonable Use standards as additional review criteria under a variance review</i> • <i>Option 2: Provide more specific geographic distinction of specific areas where the Reasonable Use Exemption</i>

		<p>would apply. Therefore, limiting the scope of the exemption to a defined number of lots for which build-out potential then needs to be considered within the Cumulative Impact Assessment and shown to maintain No Net Loss of Ecological Function.</p> <p>City Response: In Sections 83.500 and 83.510 for critical area regulations, "Reasonable Use Exemptions" have been omitted. These proposals are now reviewed under a shoreline variance.</p> <p>Concerning Geological Hazardous Areas and Flood Hazard Reduction, regulations have been provided in Chapter 83 consistent with the WAC Guidelines.</p>
If SMP includes optional expansion of jurisdiction: Clear description of the inclusion of any land necessary for buffers of critical areas that occur within shorelines of the state, accurately depicting new SMP jurisdiction consistent with RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a).	Not applicable.	<p>City Comment: SMP does not include optional expansion of jurisdiction to critical area buffers.</p> <p>Ecology: Compliant:</p> <p><i>The City has clearly stated within section 83.500.1 that they do <u>not</u> intend to expand shoreline jurisdiction to the upland extent of critical area buffers.</i></p>
Wetlands. WAC 173-26-221(2)(c)(i)		
Wetlands definitions are consistent with WAC 173-22.	Section 83.80.115 (see Attachment 6).	Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i>
Provisions requiring wetlands delineation method are consistent with WAC 173-22-035.	Section 83.500.2 (see Attachment 6).	Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i>
Regulations address all uses and activities listed in WAC 173-26-221(2)(c)(i)(A) to achieve no net loss of wetland area and functions including lost time when the wetland does not perform the function. [WAC 173-26-221(2)(c)(i)(A) + (C)]	See the following sections in Attachment 6: Section 83.500.4, 6, 7, 8, 9, 10, 11, and 12.	Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i>
Wetlands rating or categorization system is based on rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Use Ecology Rating system or regionally specific, scientifically based method. WAC 173-26-221(2)(c)(i)(B)]	Section 83.500.3 (see Attachment 6).	Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i>
Buffer requirements are adequate to ensure wetland functions are protected and maintained in the long-term, taking into account ecological functions of the wetland, characteristics of the buffer,	Section 83.500.4 (see Attachment 6).	City Comment: The wetland requirements in Section 83.500 incorporate the buffers

and potential impacts associated with adjacent land uses. WAC 173-26-221(2)(c)(i)(B)		requirements that King County has adopted to regulate wetlands within their Urban Growth Area (UGA). Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i>
Wetland mitigation requirements are consistent with WAC 173-26-201(2)(e) and which are based on the wetland rating. WAC 173-26-221(2)(c)(i)(E) and (F)	Section 83.500.8 (see Attachment 6).	Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i>
<p>Compensatory mitigation allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.</p> <p>Compensatory mitigation requirements include (I) replacement ratios; (II) Performance standards for evaluating success; (III) long-term monitoring and reporting procedures; and (IV) long-term protection and management of compensatory mitigation sites. WAC 173-26-221(2)(c)(i)(F)</p> <p>Compensatory mitigation requirements are consistent with preference for “in-kind and nearby” replacement, and include requirement for watershed plan if off-site mitigation is proposed. WAC 173-173-26-201(2)(e)(B)</p>	See the following sections in Attachment 6: Section 83.360 Section 500.7 and 8.	<p>City Comment: The standards for compensatory mitigation utilize the mitigation ratios specified in the Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10 guidance as contained in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance.</p> <p>Ecology: Compliant <i>The referenced provision appears consistent with previous comments from Ecology to the City in letter dated July 8, 2008.</i></p>
Geologically Hazardous Areas. WAC 173-26-221(2)(c)(ii)		
<p>Prohibition on new development (or creation of new lots) that would:</p> <ul style="list-style-type: none"> cause foreseeable risk from geological conditions during the life of the development prohibited. WAC 173-26-221(2)(c)(ii)(B) require structural shoreline stabilization over the life of the development. (Exceptions allowed where stabilization needed to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.) WAC 173-26-221(2)(c)(ii)(C) 	Section 83.520 (see Attachment 6) Section 83.300 (see Attachment 6).	Ecology: Compliant: <i>The referenced SMP sections appear to satisfy this Guideline requirement.</i>
<p>New stabilization structures for existing primary residential structures allowed only where no alternatives (including relocation or reconstruction of existing structures), are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result. WAC 173-26-221(2)(c)(ii)(D)</p>	See the following sections in Attachment 6: Section 83.300. Section 83.360.	Ecology: Compliant: <i>Independent of suggested edits to ensure consistency in reference to “Hard Structural Shoreline Stabilization” and “Structural Stabilization” explained in the Shoreline Stabilization section below, the referenced sections appear consistent with Guideline requirements.</i>

Critical Saltwater Habitats. WAC 173-26-221(2)(c)(iii)		
Prohibition on new docks, bulkheads, bridges, fill, floats, jetties, utility crossings and other human-made structures that intrude into or over critical saltwater habitats, except where: <ul style="list-style-type: none"> public need is clearly demonstrated; avoidance of impacts is not feasible or would result in unreasonable cost; the project include appropriate mitigation; and the project is consistent with resource protection and species recovery. Private, non-commercial docks for individual residential or community use allowed if it is infeasible to avoid impacts by alternative alignment or location and the project results in no net loss of ecological functions. WAC 173-26-221(2)(c)(iii)(C)	Not applicable.	
Where inventory of critical saltwater habitat has not been done, all over water and near-shore developments in marine and estuarine waters require habitat assessment of site and adjacent beach sections. WAC 173-26-221(2)(c)(iii)(C)	Not applicable.	
Critical Freshwater Habitats. WAC 173-26-221(2)(c)(iv)		
Requirements that ensure new development within stream channel, channel migration zone, wetlands, floodplain, hyporheic zone, does not cause a net loss of ecological functions. WAC 173-26-221(2)(c)(iv)(C)(I) and WAC 173-26-221(2)(c)(iv)(B)(II)	Section 83.500 and 510 (see Attachment 6). Section 83.530 (see Attachment 6)	City Comment: Kirkland's floodplain is located within a shoreline associated wetlands and, as a result, flood hazard reduction is generally accomplished through implementation of wetland and stream protections. Ecology: Compliant: See City Response (June 2010). <i>See comment related to the Flood Hazard section with recommendations to narrow referenced ordinances or add additional SMP standards.</i> City Response: Section 83.530 has been revised to no longer reference ordinances. The section reflects the State Guidelines.
Authorization of appropriate restoration projects is facilitated. WAC 173-26-221(2)(c)(iv)(C)(III)	Section 83.510.12 and 83.500.11 (see Attachment 6)	Ecology: Compliant: <i>The referenced SMP Standards appear to satisfy this Guideline requirement.</i>
Regulations protect hydrologic connections between water bodies, water courses, and associated wetlands. WAC 173-26-221(2)(c)(iv)(C)(IV)	Section 83.500 and 510 (see Attachment 6).	City Comment: Development generally required to locate outside of required buffers, unless specifically authorized under the specific provisions of these sections, which consider impacts to hydrology. Ecology: Compliant: <i>The referenced SMP Standards appear to satisfy this Guideline requirement.</i>

Flood Hazard Reduction. WAC 173-26-221(3)		
<p>New development within the channel migration zone or floodway limited to uses and activities listed in WAC 173-26-221(3)(b) and (3)(c)(i)</p>	<p>Section 21.56.085 and 090 (see Attachment 8).</p> <p>Section 83.500 and 510 (see Attachment 6).</p>	<p>City Comment: Not applicable to the lake.</p> <p>The City does have floodplains associated with several stream systems that coincide with the wetland areas located in Yarrow Bay and Forbes Creek wetlands, and therefore are a part of the SMP as these wetlands systems area shoreline associated. As a result, flood hazard reduction for these areas is generally accomplished through implementation of wetland and stream protections (shoreline streams are within the wetlands).</p> <p>Ecology Compliant: See City Response (June 2010).</p> <p><i>Within the draft SMP, section 83.530 formally references <u>all</u> of chapter 21.56 (Flood Damage Prevention). This essentially brings the Flood Damage ordinance into as part of the updated SMP.</i></p> <p>Suggestion:</p> <ul style="list-style-type: none"> • <i>Discuss with the City the possibility to limit this reference to only those sections of chapter 21.56 (Flood Damage) to only those sections that are relevant to SMP Guideline requirements. For example, limiting development to areas outside of channel migration zone or floodway as required by the Guidelines could be satisfied by either referencing a specific standard or section within the City's flood damage ordinance or just creating a new standard just for the SMP.</i> <p>City Response: Section 83.530 has been revised to no longer reference other ordinances. The revised section reflects the State Guidelines.</p>
<p>New structural flood hazard reduction measures allowed only: where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished.</p> <p>landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis. WAC 173-26-221(3)(c)(ii) & (iii)</p>	<p>Section 83.510.10, Section 83.500.7 and 9 (see Attachment 6).</p> <p>Section 83.530 (see Attachment 6).</p>	<p>Ecology: Same comment as above</p> <p>Suggestion:</p> <ul style="list-style-type: none"> • <i>As describe above, the City could limit reference to Chapter 21.56 (Flood Damage) by just referencing this specific section or repeating these standards within the SMP.</i> <p>City Response: Section 83.530 has been revised to no longer reference</p>

		other ordinances. The section reflects the Guidelines.
New publicly funded dikes or levees required to dedicate and improve public access (see exceptions). WAC 173-26-221(3)(c)(iv)	Section 83.420 (see Attachment 6)	Ecology: Compliant: <i>The referenced SMP section appears consistent with this Guideline requirement.</i>
Removal of gravel for flood control allowed only if biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution. WAC 173-26-221(3)(c)(v)	See the following sections in Attachment 6: Section 83.320, Section 83.510.9 and Section 83.500.7.	Ecology: Compliant: <i>The referenced sections appear consistent with these Guideline requirements.</i>
Public Access. WAC 173-26-221(4)		
Policies and regulations protect and enhance both physical and visual access . WAC 173-26-221(4)(d)(i)	Goal 26 addresses visual and physical access. Other goals (e.g. Goal 7 and related policies) also address these issues (see Attachment 4). Section 83.410 and 420 (see Attachment 6).	Ecology: Compliant: <i>The City has historically placed a strong emphasis on preserving shoreline public access. The draft SMP Goals/Policies & Regulations appear to continue to emphasize protection of both visual and physical access to shoreline areas consistent with SMP Guideline requirements.</i>
Public entities are required to incorporate public access measures as part of each development project, unless access is incompatible with safety, security, or environmental protection. WAC 173-26-221(4)(d)(ii)	Section 83.420 (see Attachment 6).	Ecology: Compliant: <i>Within section 83.420(5), the only exceptions to providing Public Access are granted to residential (L-environment), the Natural environment and detached Dwelling units. Other modifications to Public Access requirements are reviewed on a case-by-case basis utilizing criteria provided in section 83.420(6), intended to balance appropriate access with safety, security and environmental protection consistent with the Guidelines.</i> City Response: Section 83.420(5) has been revised to require public access for 5 or more lots in the Residential –L (single family zones).
Non-water-dependent uses (including water-enjoyment, water-related uses) and subdivisions of land into more than four parcels include standards for dedication and improvement of public access. WAC 173-26-221(4)(d)(iii)	Section 83.420 (see Attachment 6).	Ecology: Compliant: <i>The City appears to require Public Access for all shoreline development, except for uses listed under section 83.420(5) or modifications consistent with 83.420(6).</i>
Maximum height limits, setbacks, and view corridors minimize impacts to existing views from public property or substantial numbers of residences. WAC 173-26-221(4)(d)(iv); RCW 90.58.320	See the following sections in Attachment 6: Section 83.410. Section 83.180 and 83.190.4.	Ecology: Compliant: <i>Section 83.410 provides specific view corridor standards, with exceptions listed in subsection 3a-c.</i> <i>Section 83.180 and 83.190.4 provide building height standards consistent with Guideline requirements and</i>

		appropriate to preserve existing shoreline views.
Vegetation Conservation (Clearing and Grading). WAC 173-26-221(5)		
Vegetation standards implement the principles in WAC 173-26-221(5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. WAC 173-26-221(5)(c)	See the following sections in Attachment 6: Sections 83.330, 400 and 490, 500, and 510, as well as incentives contained in Section 83.380.	Ecology: Compliant: <i>Section 83.330 provides standards to protect existing habitat consistent with setback/buffer requirements provided in 83.380. In addition to standard vegetation enhancement requirements to be applied to new development, the City's setback/buffer standards also provide development incentives to further enhance or create shoreline habitat consistent with SMP-Guideline goals.</i>
Selective pruning of trees for safety and view protection is allowed and removal of noxious weeds is authorized. WAC 173-26-221(5)(c)	See the following sections in Attachment 6: Section 83.400.2 Section 83.350 and 480.	Ecology: Compliant: <i>The referenced SMP-standard appears consistent with this Guideline requirement, requiring a professional evaluation to acknowledge safety concern trees. Additional site-by-site flexibility can be considered, subject to review and approval by the Planning Official.</i>
Water Quality. WAC 173-26-221(6)		
Provisions protect against adverse impacts to water quality and storm water quantity and ensure mutual consistency between SMP and other regulations addressing water quality. WAC 173-26-221(6)	Section 83.480 (see Attachment 6).	Ecology: Compliant: <i>Section 83.480 appears consistent with this Guideline requirement. Subsections 1-3 provide a general goal to encourage appropriate water quality control and reduction of pollution risk. Development proposals are required to submit</i>
SHORELINE MODIFICATIONS		
SMP: (a) allows structural shoreline modifications only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement; (b) limits shoreline modifications in number and extent; (c) allows only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed; (d) gives preference to those types of shoreline modifications that have a lesser impact on ecological functions. Policies promote "soft" over "hard" shoreline modification measures (f) incorporates all feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur; (g) requires mitigation sequencing. WAC 173-26-231(2); WAC 173-26-231(3)(a)(ii) and (iii);	GOAL SMP - 10 AND RELATED POLICIES (SEE ATTACHMENT 4) SECTION 83.170 (SEE ATTACHMENT 6) SECTIONS 83.260-350 (SEE ATTACHMENT 6) SECTION 83.360 (SEE ATTACHMENT 6)	Ecology: Compliant: <i>Section 83.170 (use matrix) limits Shoreline Modifications through prohibiting both "hard" and "soft shoreline stabilization measures" within the Natural environment.</i> <i>83.260 – 83.350 provide specific development standards pertaining to the following modifications: Piers/Docks (83.260-.280), Marinas (83.290), Shoreline Stabilization (83.300), Breakwaters/Jetties (83.310), Dredging (83.320), Land Surface Modification (83.330), Landfill (83.340), and Shoreline Habitat Enhancement (83.350). All of these specific standards are further analyzed for Guideline compliance within proceeding sections of this checklist.</i>

		<p>83.360 provide No Net Loss and Mitigation Sequencing standards also applicable to future Shoreline Modifications.</p> <p>City Response: Sections 83.170, and 83.260 through 83.350 limit size and location of shoreline modifications, provide specific dimensional standards for piers and docks and give preference to soft over hard stabilization.</p>
<p>Definition: structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. WAC 173-26-231(3)(a)(i)</p> <p>Definition of new stabilization measures include enlargement of existing structures. WAC 173-26-231(3)(a)(iii)(C), last bullet; WAC 173-26-231(3)(a)(iii)(B)(I), 5th bullet)</p>	<p>See the following sections in Attachment 6: Section 83.80.44, 89, and 95.</p> <p>Section 83.300</p>	<p>Ecology: Compliant: See changes noted in the City's Response below (June 2010).</p> <p><i>(Compliant) As referenced by the City, section 83.300.4.b.1, provides specific thresholds to distinguish between: "enlargement", "repair" or "replacement". Consistent with the Guidelines, "replacement" proposals (not meeting the threshold of "minor repair") are required to be analyzed the same as new stabilization measures, requiring justification for "hard stabilization" to protect primary structures located further than 10' upland of OHWM.</i></p> <p><i>(Non-Compliant/Question) Further, within section 83.80, the City has provided specific definitions for: Shoreline Stabilization (89), Hard Structural Shoreline Stabilization (44), and Soft Shoreline Stabilization (95). A definition for "structural stabilization" does not appear within this section. However, section 83.300 consistently refers to "Structural Stabilization". <u>It is not clear if this reference is intended to only refer to "Hard Structural Stabilization", or if it is also intended to include "Soft Shoreline Stabilization"?</u></i></p> <p>City Response: A definition has been added in Section 83.80.121 for structural shoreline stabilization.</p> <p>Ecology (Discuss) 83.300.9.K, requiring adjacent property owner consent when beach restoration results in a change in OHWM location thus changing shoreline jurisdiction. This standard could be perceived as a barrier to restoration project implementation – <u>suggest incorporating recent legislative (HB2199) options to provide added flexibility to upland property owners that come into shoreline jurisdiction as a result of a restoration project.</u></p>

		<p>City Response: Section 83.300.14 (formerly 83.300.9.k) has been revised to only provide notice to adjacent property owner. This section now reflects intent of HB2199.</p> <p>Ecology Requirement/Question:</p> <ul style="list-style-type: none"> • <i>(Suggestion) The first sentence of standard 1 (General), c. should be rewritten by deleting the word, “prevent”, to make the sentence easier to understand.</i> • <i>(Requirement) Clarify the definition of “Structural Stabilization” used throughout the SMP. Is this the same as “Hard Structural Shoreline Stabilization” as defined in 83.80, or different? If different, a definition will need to be added to distinguish the two meanings.</i> <p>City Response:</p> <ul style="list-style-type: none"> • New definition for structural stabilization has been added (Section 80.121) and internal use of terminology has been reviewed and corrected where needed to clarify whether provisions specifically address hard, soft, or both types of structural stabilization. • Provisions revised to incorporate HB 2199 (see Section 83.300.14 and Section 141.70.5).
<p>Shoreline Stabilization. WAC 173-26-231(3)(a)</p> <p>Standards setting forth circumstances under which shoreline alteration is permitted, and for the design and type of protective measures and devices. WAC 173-26-231(3)(a)(ii)</p>	<p>Section 83.300 (see Attachment 6).</p>	<p>Ecology: Complaint: See changes noted in the City’s Response below (June 2010).</p> <p><i>(Compliant) Within section 83.300,2, standards a. through c .describe when Shoreline Stabilization can be considered.</i></p> <p><i>(Compliant) Same comment as above use of both “Structural/Non-Structural” and “Hard Structural Shoreline Stabilization/Soft Shoreline Stabilization” is not consistent and could add confusion to the distinction between these definitions or requirements of the SMP.</i></p> <p>City Response: See changes to Chapter 83 noted above for shoreline stabilization.</p> <p>Ecology (Question) 83.300.2</p>

		<p><i>standards c. 1-3 appears to isolate exception to limits on Structural Stabilization. Specifically, c.2. is confusing in the reference to “In support of non-water-dependent development, including detached dwelling units when all the conditions below apply”. Is this reference intended to include all upland (non-water-dependent) development? Further, “detached dwelling units” are not defined in 83.80. It is not understood, how broad this exemption could be applied? Could some claim their swimming pool, grass lawn, or utility shed is a “non-water-dependent development” and attempt to justify stabilization for protection?</i></p> <p>City Response:</p> <ul style="list-style-type: none"> • Section 83.200.2 has been revised to clarify single family exemption. • Section 83.80 has been revised to change definition of “appurtenance” to be consistent with the Guidelines and to provide a definition of “detached dwelling unit”. <p>Required Change/Question:</p> <ul style="list-style-type: none"> • <i>(Non-Compliant) same comment as above, clarify definition of “Structural Stabilization” with existing definition of “Hard Shoreline Structural Stabilization”. Also, a definition for “Non-structural Measures”, should be clarified or distinguished from “Soft Shoreline Stabilization” as defined in 83.80.</i> • <i>(Non-Compliant/Question) The existing reference “non-water-dependent development including detached dwelling units” in 83.300.2.c.2, may not be acceptable or consistent with the Guidelines, depending on applicability to shoreline features.</i> <p>City Response:</p> <ul style="list-style-type: none"> • New definition for structural stabilization has been added (see Section 83.80.121) and internal use of terminology has been reviewed and corrected where needed to clarify whether provisions specifically
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		<p>address hard, soft, or both types of structural stabilization.</p> <ul style="list-style-type: none"> Provision has been re-worded to specifically address protection of primary structures.
<p>New development (<i>including newly created parcels</i>) required to be designed and located to prevent the need for future shoreline stabilization, based upon geotechnical analysis.</p> <p>New development on steep slopes and bluffs required to be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.</p> <p>New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited. WAC 173-26-231(3)(a)(iii)(A)</p>	<p>Policy SMP - 10.8 (see Attachment 4)</p> <p>Section 83.250 and Section 83.300.1 (see Attachment 6)</p>	<p>Ecology: Compliant:</p> <p><i>83.250.1.b. and 83.300.1-11 are consistent with this Guideline requirement.</i></p>
<p>New structural stabilization measures are not allowed except when necessity is demonstrated. Specific requirements for <i>how to demonstrate need</i> are established for:</p> <p>(I) existing primary structures;</p> <p>(II) new non-water-dependent development including Single Family Residences;</p> <p>(III) water-dependent development; and</p> <p>(IV) ecological restoration/toxic clean-up remediation projects.</p> <p>WAC 173-26-231(3)(a)(iii)(B)</p>	<p>Policy SMP - 10.6-10.9 (see Attachment 4)</p> <p>Section 83.300.2 (see Attachment 6)</p>	<p>Ecology: Compliant: See changes noted in the City's Response below (June 2010).</p> <p><i>(Same question as above) 83.300.2 standards c. 1-3 appears to isolate exception to limits on Structural Stabilization. Specifically, c.2. is confusing in the reference to "In support of non-water-dependent development, including detached dwelling units when all the conditions below apply". Is this reference intended to include all upland (non-water-dependent) development? Further, "detached dwelling units" are not defined in 83.80. It is not understood, how broad this exemption could be applied? Could some claim their swimming pool, grass lawn, or utility shed is a "non-water-dependent development" and attempt to justify stabilization for protection?</i></p> <p>Required Change/Question:</p> <ul style="list-style-type: none"> <i>(Non-Compliant/Question) The existing reference "non-water-dependent development including detached dwelling units" in 83.300.2.c.2, may not be acceptable or consistent with the Guidelines, depending on applicability to shoreline features.</i> <p>City Response: Section 83.300.2 has been re-worded to specifically address protection of primary structures for structural stabilization and definition of "appurtenance" in Section 83.80 has been revised to reflect State definition.</p>

<p>Replacement of existing stabilization structures is based on demonstrated need. Waterward encroachment of replacement structure only allowed for residences occupied prior to January 1, 1992, or for soft shoreline stabilization measures that provide restoration of ecological functions. WAC 173-26-231(3)(a)(iii)(C)</p>	<p>Section 83.300.4.b.3) (see Attachment 6)</p>	<p>Ecology: Compliant: <i>The City has developed clear thresholds to distinguish “minor repair” from “replacement, while also providing criteria for determining “demonstrated need” for shoreline stabilization.</i></p>
<p>Geotechnical reports prepared to demonstrate need include estimates of rate of erosion and urgency (damage within 3 years) and evaluate alternative solutions. WAC 173-26-231(3)(a)(iii)(D)</p>	<p>Section 83.300.2.a (see Attachment 6)</p>	<p>Ecology: Compliant: <i>The City’s Geotechnical report criteria and submittal requirements appear consistent with this Guideline requirement.</i></p>
<p>Shoreline stabilization structures are limited to the minimum size necessary. WAC 173-26-231(3)(a)(iii)(E)</p>	<p>Section 83.300.9 (see Attachment 6)</p>	<p>Ecology: Compliant: <i>The referenced Shoreline Stabilization standards appear consistent with this Guideline requirement.</i></p>
<p>Public access required as part of publicly financed shoreline erosion control measures. WAC 173-26-231(3)(a)(iii)(E)</p>	<p>Section 83.420 (see Attachment 6).</p>	<p>Ecology: Compliant: <i>The referenced Shoreline Stabilization standards appear consistent with this Guideline requirement.</i></p>
<p>Impacts to sediment transport required to be avoided or minimized. WAC 173-26-231(3)(a)(iii)(E)</p>	<p>Section 83.300. (see Attachment 6).</p>	<p>Ecology: Compliant: <i>The referenced Shoreline Stabilization standards appear consistent with this Guideline requirement.</i></p>
<p>Piers and Docks. WAC 173-26-231(3)(b)</p>		
<p>New piers and docks: allowed only for water-dependent uses or public access restricted to the minimum size necessary to serve a proposed water-dependent use. permitted only when specific need is demonstrated (except for docks accessory to single-family residences). Note: Docks associated with single family residences are defined as water dependent uses provided they are designed and intended as a facility for access to watercraft. WAC 173-26-231(3)(b)</p>	<p>Section 83.270.1 (see Attachment 6) and Section 83.220.5 (for public access piers and boardwalks) (see Attachment 6).</p>	<p>City Comment: Standards addressing piers and docks under WAC 173-26-231(3)(b) predominately addressed under Section 83.270. In contrast, standards addressing boating facilities are addressed in Section 83.280 (addressing piers serving multifamily uses) and Section 83.290 (addressing piers operated for commercial or public purposes) Ecology: Compliant: <i>Section 83.270 in reference to Pier/Docks associated with single-family residential uses, appears consistent with this Guideline requirement.</i> Note: Comment recommending “multi-family” Pier/Dock standards are part of the “Boating Facility” section of the SMP. City Response: New definition of boating facilities in Sections 83.80 and 83.270-290 now clarifies the multi-family standards.</p>

When permitted, new residential development of more than two dwellings required to provide joint use or community docks, rather than individual docks. WAC 173-26-231(3)(b)	Section 83.270.1 (see Attachment 6)	Ecology: Compliant: <i>Section 83.270.1.b (1-3) provides SMP standards that appear consistent with this Guideline Requirement.</i>
Design and construction of all piers and docks required to avoid, minimize and mitigate for impacts to ecological processes and functions and be constructed of approved materials. WAC 173-26-231(3)(b)	See the following sections in Attachment 6: Section 83.360 Section 83.270.4	Ecology: Compliant: <i>The City has done a good job balancing Pier/Dock redevelopment needs with protection of ecological functions through creating Pier/Dock development standards for new structures, minor repair (defined threshold), and replacement. These standards have been analyzed within the City's Cumulative Impact Assessment and should support no net loss of ecological functions over time. The City's proposed thresholds appear appropriate and justified to meet the no net loss standard.</i>
Fill. WAC 173-26-231(3)(c)		
Definition of "fill" consistent with WAC 173-26-020(14)	Section 83.80.45 (see Attachment 6).	Ecology: Compliant: <i>The definition within the SMP appears consistent with the Guideline definition.</i> Suggestion: <ul style="list-style-type: none">• Change section heading in table of contents for Section 83 from "Landfill" to "Fill". City Response: Section heading has been corrected.
Location, design, and construction of all fills protect ecological processes and functions, including channel migration. WAC 173-26-231(3)(c)	See the following sections in Attachment 6: Section 83.340.	Ecology: Compliant: <i>The referenced section appears consistent with this Guideline requirement.</i>
Fill waterward of the OHWM allowed only by shoreline conditional use permit, for: water-dependent use; public access; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material in accordance with DNR Dredged Material Management Program; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible); mitigation action, environmental restoration, beach nourishment or enhancement project. WAC 173-26-231(3)(c)	See the following sections in Attachment 6: Section 83.170 and 83.340.3.	Ecology: Compliant: <i>The referenced section appears consistent with this Guideline requirement. Allowing fill seaward of OHWM is an important restoration component necessary to support bulkhead removal and beach restoration.</i>
Breakwaters, Jetties, and Weirs. WAC 173-26-231(3)(d)		
Structures waterward of the ordinary high-water mark allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. WAC 173-26-	Section 83.310.1 (see Attachment 6)	Ecology: Compliant: <i>The City is proposing limited opportunity for Breakwaters/Jetties</i>

231(3)(d)		<i>or Weirs as Conditional Uses within the Residential-M/H and Mixed-Use designation and only when associated with one of the SMA preferred uses, consistent with the Guidelines.</i>
Shoreline conditional use permit required for all structures except protection/restoration projects. WAC 173-26-231(3)(d)	Section 83.170 (see Attachment 6)	Ecology: Compliant: <i>Pursuant to the referenced section of the City's SMP, a Conditional Use Permit would be required for any Breakwaters/Jetties or Wiers within the Residential-M/H or Mixed-Use designation and only when associated with a SMA preferred use.</i>
Protection of critical areas and appropriate mitigation required. WAC 173-26-231(3)(d)	Section 83.310 (see Attachment 6)	City Comment: Prohibited in Natural and Urban Conservancy Environment Ecology: Compliant: <i>As referenced above and stated by the City, this use will be very limited by both designation and associated use outside of protected critical areas.</i>
Dunes Management. WAC 173-26-231(3)(e)		
Development setbacks from dunes prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dunes. WAC 173-26-231(3)(e)	Not applicable	
Dune modifications allowed only when consistent with state and federal flood protection standards and result in no net loss of ecological processes and functions. WAC 173-26-231(3)(e)	Not applicable	
Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy. WAC 173-26-231(3)(e)	Not applicable	
Dredging and Dredge Material Disposal. WAC 173-26-231(3)(f)		
Dredging and dredge material disposal avoids or minimizes significant ecological impacts. Impacts which cannot be avoided are mitigated. WAC 173-26-231(3)(f)	See the following sections in Attachment 6: Section 83.320 Section 83.360	Ecology: Compliant: <i>The referenced section appears generally compliant with this Guideline requirement.</i>
New development siting and design avoids the need for new and maintenance dredging. WAC 173-26-231(3)(f)	Section 83.320.1 (see Attachment 6)	Ecology: Compliant: <i>Within section 83.320, standard 1 is consistent with this Guideline requirement.</i>
Dredging to establish, expand, relocate or reconfigure navigation channels allowed only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. WAC 173-26-231(3)(f)	Section 83.320.2. (see Attachment 6)	Ecology: Compliant: <i>As referenced by the City, standard 2 is consistent with this Guideline requirement.</i>

<p>Maintenance dredging of established navigation channels and basins restricted to maintaining previously dredged and/or existing authorized location, depth, and width. WAC 173-26-231(3)(f)</p>	<p>Section 83.320.2. (see Attachment 6)</p>	<p>Ecology: Compliant: <i>As referenced by the City, standard 2 is consistent with this Guideline requirement.</i></p>
<p>Dredging for fill materials prohibited except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. Placement of fill must be <i>waterward</i> of OHWM. WAC 173-26-231(3)(f)</p>	<p>Section 83.170. and Section 83.320.2 and 3. (see Attachment 6)</p>	<p>Ecology: Compliant: <i>As referenced by the City, standards 2 and 3 appear consistent with these Guideline requirements.</i></p>
<p>Uses of dredge material that benefits shoreline resources are addressed. If applicable, addressed through implementation of regional interagency dredge material management plans or watershed plan. WAC 173-26-231(3)(f)</p>	<p>Section 83.320.2 (see Attachment 6)</p>	<p>Ecology: Compliant: <i>Consistent with the Guidelines, the City will only allow dredge materials to be deposited seaward of OHWM when it is proven the quality of the material meets state and federal standards and in support of a beach restoration project.</i></p>
<p>Disposal within river channel migration zones discouraged, and in limited instances when allowed, require CUP. (Note: not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone). WAC 173-26-231(3)(f)</p>	<p>Not applicable)</p>	
<p>Shoreline Habitat and Natural Systems Enhancement Projects. WAC 173-26-231(3)(g)</p>		
<p>Provisions that foster habitat and natural system enhancement projects, provided the primary purpose is restoration of the natural character and functions of the shoreline, and only when consistent with implementation of the restoration plan developed pursuant to WAC 173-26-201(2)(f)</p>	<p>See the following sections in Attachment 6: Section 83.350. Section 83.500.11 and 83.510.12.</p>	<p>Ecology: Compliant: <i>As referenced by the City, section 83.350 defines the potential types of enhancement projects that could be done within shoreline areas, section 83.500.11 refers to Wetland enhancements, and section 83.510.12 refers to Stream Rehabilitations.</i></p>
<p>SPECIFIC SHORELINE USES</p>		
<p>Agriculture. WAC 173-26-241(3)(a)</p>		
<p>Use of agriculture related terms is consistent with the specific meanings provided in WAC 173-26-020. WAC 173-26-241(3)(a)(ii) and (iv)</p>	<p>Sections 83.80.2 and .83.170.</p>	<p>City Comment: Not permitted (see Section 83.170) Ecology: Compliant: See changes noted in the City's Response below (June 2010). <i>Even though the use matrix provided in section 83.170 lists Agriculture, Aquaculture, Forest Practices and Mining as prohibited, all uses that are listed in WAC 173-26-241(Agriculture, Aquaculture, Boating Facilities, Commercial, Forest Practice, Industry, In-Stream Structure, Recreation, Residential, Transportation, Utilities), should be defined and either prohibited or listed as conditional or permitted uses with appropriate development standards identified to satisfy the no</i></p>

		<p><i>net loss policy goal of the SMP.</i></p> <p>Suggestion:</p> <ul style="list-style-type: none"> The City should consider either, provide an additional section to section 83 listing all the prohibited uses including definitions for each use, or insert each individual SMP use (based on WAC 173-26-241), for which each use should be defined (consistent w/Guidelines) and either listed as prohibited, conditional or permitted with appropriate development standards. <p>City Response: Agricultural use is now defined in 83.80 and listed in Section 83.170. However, the use is prohibited and not eligible for conditional use permit or variance.</p>
<p>Provisions address new agricultural activities, conversion of agricultural lands to other uses, and other development not meeting the definition of agricultural activities.</p> <p>Provisions assure that development in support of agricultural uses is: (A) consistent with the environment designation; and (B) located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values. WAC 173-26-241(3)(a)(ii) & (v)</p>	<p>Not applicable.</p>	<p>City Comment: Not permitted (see Section 83.170)</p> <p>Ecology: See comments above.</p> <p>City Response: see City response above for agricultural activities.</p>
<p>Shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv)</p>	<p>Not applicable.</p>	<p>City Comment: Not permitted (see Section 83.170)</p> <p>Ecology: See comments above.</p>
<p>Conversion of agricultural land to non-agricultural uses is consistent with the environment designation, and regulations applicable to the proposed use do not result in a net loss of ecological functions. WAC 173-26-241(3)(a)(vi)</p>	<p>Not applicable.</p>	<p>City Comment: Not permitted (see Section 83.170)</p> <p>Ecology: See comments above.</p> <p>City Response: see City response above for agricultural activities.</p>
<p>Aquaculture. WAC 173-26-241(3)(b)</p>		
<p>Location and design requirements for aquaculture facilities avoid: loss of ecological functions, impacts to eelgrass and macroalgae, significant conflict with navigation and water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities. Impacts to functions are mitigated. WAC 173-26-241(3)(b)</p>	<p>Not applicable.</p>	<p>City Comment: Not permitted (see Section 83.170)</p> <p>Ecology: See comments above for other prohibited shoreline uses (i.e. Agriculture, Aquaculture, Forest Practices & Mining). All SMP Uses listed in WAC 173-26-241 should be defined within the SMP and then either prohibited or permitted with appropriate standards</p> <p>City Response: Aquaculture use is now defined in 83.80 and listed in Section 83.170. However, the use is prohibited and not eligible for</p>

		conditional use permit or variance.
Boating Facilities. WAC 173-26-241(3)(c)		
Definition: Boating facility standards do not apply to docks serving four or fewer SFRs. WAC 173-26-241(3)(c)	Section 83.270 specifically addresses piers and docks serving single family residences (see Attachment 6)	<p>City Comment: Standards addressing boating facilities are addressed in Section 83.280 (addressing piers serving multifamily uses) and Section 83.290 (addressing piers operated for commercial or public purposes)</p> <p>Ecology: Compliant: See changes noted in the City's Response below (June 2010).</p> <p><i>The City should clarify if section 83.290 (Marinas & Moorage Facilities...) are "Boating Facilities"?</i></p> <p><i>All of the uses listed in WAC 173-26-241 must be addressed within the updates SMP. Therefore, the City needs to define "Boating Facilities" and either prohibit or permit with appropriate development standards.</i></p> <p>Requirement/Suggestion:</p> <ul style="list-style-type: none"> • (Discuss) The City could define "Boating Facilities" as "Marinas & Moorage Facilities..." either within section 83.80 (Definitions) or 83.290. • Add "multi-family" Pier/Dock standards to this section. <p>City Response: New definition for boating facilities added (see Section 83.80.14) clarifying that it includes both marina and moorage facilities as well as piers and docks serving attached, stacked, and detached dwelling units.</p>
Boating facilities restricted to suitable locations. WAC 173-26-241(3)(c)(i)	See the following sections in Attachment 6: Section 83.280.5 and Section 83.290.2.	Ecology: Compliant: <i>These referenced SMP sections appear consistent with this Guideline standard.</i>
Provisions ensuring health, safety, and welfare requirements are met. WAC 173-26-241(3)(c)(ii)	See the following sections in Attachment 6: Section 83.280.4 and Section 83.290.4	Ecology: Compliant: <i>These referenced SMP sections appear consistent with this Guideline standard.</i>
Provisions to avoid or mitigate aesthetic impacts. See WAC 173-26-241(3)(c)(iii)	See the following sections in Attachment 6: Section 83.280.4 and Section 83.290.4	Ecology: Compliant: <i>These referenced SMP sections appear consistent with this Guideline standard.</i>
Public access required in new boating facilities. WAC 173-26-241(3)(c)(iv)	Section 83.420 (see Attachment 6).	Ecology: Compliant: <i>These referenced SMP sections appear consistent with this</i>

		<i>Guideline standard.</i>
Impacts of live-aboard vessels are limited. WAC 173-26-241(3)(c)(v)	Section 83.200.1 (see Attachment 6).	Ecology: Compliant: <i>The City clearly prohibits overwater residential use, including live-aboard vessels within the referenced SMP section.</i>
Provisions assuring no net loss of ecological functions as a result of development of boating facilities while providing public recreational opportunities. WAC 173-26-241(3)(c)(vi)	See the following sections in Attachment 6: Section 83.280 and 290 Section 83.360	Ecology: Compliant: <i>These referenced SMP sections appear consistent with this Guideline standard.</i>
Navigation rights are protected. WAC 173-26-241(3)(c)(vii)	See the following sections in Attachment 6: Section 83.280.2 and 5 Section 83.290.2 and 5	Ecology: Compliant: <i>These referenced SMP sections appear consistent with this Guideline standard.</i>
Extended moorage on waters of the state without a lease or permission is restricted, and mitigation of impacts to navigation and access is required. WAC 173-26-241(3)(c)(viii)	Section 83.370 (see Attachment 6).	Ecology: Compliant: <i>The referenced SMP section appears consistent with this Guideline standard.</i>
Commercial Development. WAC 173-26-241(3)(d)		
Preference given first to water-dependent uses, then to water-oriented commercial uses. WAC 173-26-241(3)(d)	See the following sections in Attachment 6: Section 83.170 Section 83.30.5	Ecology: Compliant: See changes noted in the City's Response below (June 2010). <i>Other than prohibiting most (not all) non-water oriented commercial uses, <u>it is not clear how preference has been given to water-dependent commercial uses within section 83.170?</u></i> <i><u>Section 83.210 (Commercial Uses) also does not provide a clear preference for water-dependent uses.</u></i> Requirement/Suggestion: <ul style="list-style-type: none">• (Suggest) adding a "General" heading to section 83.210 (Commercial Uses) that provides a clear preference for protection and encouragement of water-dependent uses over non-water dependent uses.• Ecology can discuss with Staff other options. City Response: A statement has been added under the Purpose and Intent subsection of Section 83.30 giving preference to water-dependant and water-related uses and is stated in the shoreline policies. In addition, setback and landscape standards are less restrictive for these uses. Non-

		water-oriented commercial uses are not permitted, except in the Urban Mixed area.
Water-enjoyment and water-related commercial uses required to provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access. WAC 173-26-241(3)(d)	See the following sections in Attachment 6: Section 83.420 Section 83.400	Ecology: Compliant: <i>These SMP referenced sections appear to satisfy this Guideline requirement.</i>
New non-water-oriented commercial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(d)	Section 83.170 (see Attachment 6).	Ecology: Compliant: Note: Footnote applied to all Non-water oriented uses allowed in the Urban Mixed Environment that they must be part of a Mixed-Use development containing a water-oriented use as the primary use of the site (Section 83.170).
Non-water-dependent commercial uses over water prohibited except in existing structures, and where necessary to support water-dependent uses. WAC 173-26-241(3)(d)	Section 83.170 (see Attachment 6).	Ecology: Compliant: <i>The referenced section appears consistent with this Guideline standard.</i>
Forest Practices. WAC 173-26-241(3)(e)		
Forest practices not covered by the Forest Practices Act, especially Class IV-General forest practices involving conversions to non-forest use result in no net loss of ecological functions and avoid impacts to navigation, recreation and public access. WAC 173-26-241(3)(e)	Not applicable.	City Comment: Not permitted (see Section 83.170) Ecology: See comments above for other prohibited shoreline uses (i.e. Agriculture, Aquaculture, Forest Practices & Mining). All SMP Uses listed in WAC 173-26-241 should be defined within the SMP and then either prohibited or permitted with appropriate standards. City Response: Forest practice use is now defined in 83.80 and listed in Section 83.170. However, the use is prohibited and not eligible for conditional use permit or variance See earlier comments.
SMP limits removal of trees on shorelines of statewide significance (RCW 90.58.150). Exceptions to this standard require shorelines conditional use permit. WAC 173-26-241(3)(e)	Section 83.400 (see Attachment 6).	City Comment: Limits tree removal and requires replacement of trees at a 1:1 or 1:2 ratio depending on the size of the tree. Removal of larger trees also requires planting of riparian vegetation (shrubs and groundcover). Ecology: See comments above.
Industry. WAC 173-26-241(3)(f)		
Preference given first to water-dependent uses, then to water-oriented industrial uses. WAC 173-26-241(3)(f)	Not applicable.	City Response: Industrial use is now a defined in 83.80 and listed in Section 83.170. However, the use is prohibited and not eligible for conditional use permit or variance

Location, design, and construction of industrial uses and redevelopment required to assure no net loss of ecological functions. WAC 173-26-241(3)(f)	Not applicable.	Not permitted (see Section 83.170)
Industrial uses and redevelopment encouraged to locate where environmental cleanup and restoration can be accomplished. WAC 173-26-241(3)(f)	Not applicable.	Not permitted (see Section 83.170)
Public access required unless such a requirement would interfere with operations or create hazards to life or property. WAC 173-26-241(3)(f)	Not applicable.	Not permitted (see Section 83.170)
New non-water-oriented industrial uses prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(f)	Not applicable.	Not permitted (see Section 83.170)
In-Stream Structures. WAC 173-26-241(3)(g)		
Definition: structure is waterward of the ordinary high water mark and either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. WAC 173-26-241(3)(g)	Not applicable.	City Comments: In-stream structures are addressed through stream regulations contained in Section 83.510. The regulations limit improvements within streams or their associated buffers.
In-stream structures protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. WAC 173-26-241(3)(g)	Not applicable.	See above.
Mining. WAC 173-26-241(3)(h)		
Policies and regulations for new mining projects: <ul style="list-style-type: none"> require design and operation to avoid and mitigate for adverse impacts during the course of mining and reclamation achieve no net loss of ecological functions based on required final reclamation give preference to proposals that create, restore or enhance habitat for priority species are coordinated with state Surface Mining Reclamation Act requirements. assure subsequent use of reclaimed sites is consistent with environment designation and SMP standards. See WAC 173-26-241(3)(h)(ii)(A) – (C)	Not applicable.	City Comment: Not permitted (see Section 83.170) Ecology: See comments above for other prohibited shoreline uses (i.e. Agriculture, Aquaculture, Forest Practices & Mining). All SMP Uses listed in WAC 173-26-241 should be defined within the SMP and then either prohibited or permitted with appropriate standards. City Response: Mining use is now defined in 83.80 and listed in Section 83.170. However, the use is prohibited and not eligible for conditional use permit or variance
Mining waterward of OHWM is prohibited unless: (I) Removal of specified quantities of materials in specified locations will not adversely impact natural gravel transport; (II) The mining will not significantly impact priority species and the ecological functions upon which they depend; and (III) these determinations are integrated with relevant SEPA requirements. WAC 173-26-241(3)(h)(ii)(D)	Not applicable.	City Comment: Not permitted (see Section 83.170) Ecology: See comments above. City Response: See response above concerning mining.
Renewal, extension, or reauthorization of in-stream and gravel bar mining activities require review for compliance with these new	Not applicable.	Not permitted (see Section 83.170) Ecology: See comments above.

guidelines requirements. WAC 173-26-241(3)(h)(ii)(D)(IV)		City Response: See response above concerning mining.
Mining within the Channel Migration Zone requires a shoreline conditional use permit. WAC 173-26-241(3)(h)(ii)(E)	Not applicable.	Not permitted (see Section 83.170) Ecology: See comments above. City Response: See response above concerning mining.
Recreational Development. WAC 173-26-241(3)(i)		
Definition includes both commercial and public recreation developments. WAC 173-26-241(3)(i)	Section 83.170 (see Attachment 6)	City Comment: The specific recreational uses listed include both commercial and recreational developments. Ecology: Compliant: <i>Section 83.220 (Recreational Use) provides multiple definitions related to both public and commercial recreational shoreline uses.</i>
Priority given to recreational development for access to and use of the water. WAC 173-26-241(3)(i)	Section 83.170 (see Attachment 6)	Ecology: Compliant: See changes noted in the City's Response below (June 2010). <i>There does not appear to be an emphasis on water dependent recreational uses within either section 83.170 or 83.220?</i> Requirement/Suggestion: <ul style="list-style-type: none">The City should clarify compliance with this Guideline requirement or provide a "General" standard to section 83.220 stating an emphasis on recreational development that provides access to the water. City Response: A statement has been added under the Purpose and Intent subsection of Section 83.30 giving preference to water-dependant and water-related uses and is stated in the shoreline policies. In addition, setback and landscape standards are less strict for these uses.
Location, design and operation of facilities are consistent with purpose of environment designations in which they are allowed. WAC 173-26-241(3)(i)	Section 83.170 (see Attachment 6)	Ecology: Compliant: <i>Both 83.170 (Use matrix by designation) and 83.220 provide appropriate location and design criteria consistent with this Guideline requirement.</i>
Recreational development achieves no net loss of ecological processes and functions. WAC 173-26-241(3)(i)	See the following sections in Attachment 6: Section 83.170, 180, and 220 Section 83.360.	Ecology: Compliant: <i>Standard 9 within section 83.220, specifically references no net loss of ecological functions.</i>

Residential Development. WAC 173-26-241(3)(j)

Definition includes single-family residences, multifamily development, and the creation of new residential lots through land division. WAC 173-26-241(3)(j)

Section 83.170 (see Attachment 6)

City Comment: Residential uses noted are specifically identified in the use listing under residential uses.

Ecology: Compliant: See changes noted in the City's Response below (June 2010).

Any Residential use allowed through the proposed SMP should be defined within the Master Program. Section 83.170 lists the following Residential Uses: Detached Dwelling Units, Accessory Dwelling Units, Detached, Attached or Stacked Dwelling Units, Houseboats, Assisted Living Facility, and Convalescent Center. With the exception of Houseboats, all of these Residential Uses are allowed in at least one SMP Designation, but are not defined within section 83.80 or 83.200. If allowed by the SMP, definitions will need to be added to ensure consistent evaluation of the variety of Residential Uses the City will be allowing.

Section 83.80 defines "Appurtenance" as including those listed under WAC 173-14-040 as well as adding "tool sheds, greenhouses, swimming pools, spas, accessory dwelling units and other accessory structures common to a single family residence". WAC 173-27-040(2)(g) provides a more limited definition only referencing the following structures as "appurtenances": "...garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark"

Requirement/Suggestion:

- *The City can choose to either define the specific Residential Uses in the SMP in either the Definitions (83.80) or Residential (83.200) section of the SMP.*
- *The existing definition of "Appurtenances" appears too broad, for which Ecology may not support exempt protection of all of the additional structures listed in the draft SMP.*

		<p>City Response: Added references to existing definitions of residential uses contained in the City's Zoning Code (see Section 83.80.34 thru 36).</p> <p>The definition of "appurtenances" in Section 83.80 has been revised to reflect WAC 173-27-040.</p>
<p>Single-family residences identified as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. WAC 173-26-241(3)(j)</p>	<p>See the following sections in Attachment 6: Sections 83.180 and 200, as well as general regulations, such as water quality (83.480) and vegetation (83.400).</p>	<p>Ecology: Compliant:</p> <p><i>As referenced by the City, the combination of multiple sections of the SMP are anticipated to provide adequate protection to shoreline ecological functions to off-set anticipated impacts to shoreline resources from future development at the scale allowed through the SMP.</i></p>
<p>No net loss of ecological functions assured with specific standards for setback of structures sufficient to avoid future stabilization, buffers, density, shoreline stabilization, and on-site sewage disposal. WAC 173-26-241(3)(j)</p>	<p>See the following sections in Attachment 6: Sections 83.180</p> <p>Section 83.400</p>	<p>Ecology: Compliant:</p> <p><i>As referenced by the City, dimensional development standards provided in section 83.180, combined with Vegetation Management standards listed in section 83.400 have been analyzed within the City's Cumulative Impact Assessment and shown to support no net loss of shoreline ecological functions through implementation of the Master Program.</i></p>
<p>New over-water residences and floating homes prohibited. Appropriate accommodation for existing floating or over-water homes. WAC 173-26-241(3)(j)</p>	<p>Section 83.200.1 (see Attachment 6).</p>	<p>Ecology: Compliant:</p> <p><i>The referenced standard within section 83.200 appears to satisfy this Guideline requirement.</i></p>
<p>New multiunit residential development (including subdivision of land for more than four parcels) required to provide community and/or public access in conformance to local public access plans. WAC 173-26-241(3)(j)</p>	<p>See the following sections in Attachment 6: Section 83.420 and 83.250.</p>	<p>Ecology: Compliant: See changes noted in the City's Response below (June 2010).</p> <p>Question:</p> <p><i>It is not clear if the existing SMP would require Public Access for any land-division or only land-divisions creating four or more new parcels? See email from Joe Burcar to Stacy Clauson dated 8/19/2009.</i></p> <p>City Response: Section 83.420.5 has been revised to state that development of 5 or more lots in the Residential – L shoreline environment requires public access. Public access would otherwise be required for land division in other shoreline environments under the provisions in Section 83.420.</p>
<p>New (subdivided) lots required to be designed, configured and developed to:</p> <p>(i) Prevent the loss of ecological functions at full build-out;</p> <p>(ii) Prevent the need for new shoreline stabilization or flood</p>	<p>Section 83.250 (see Attachment 6).</p>	<p>Ecology: Compliant:</p> <p><i>The referenced sections appear to be consistent with this Guideline requirement related to future land-</i></p>

hazard reduction measures; and (iii) Be consistent with applicable SMP environment designations and standards. WAC 173-26-241(3)(j)		<i>divisions.</i>
Transportation Facilities. WAC 173-26-241(3)(k)		
Proposed transportation and parking facilities required to plan, locate, and design where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water dependent uses. WAC 173-26-241(3)(k)	See the following sections in Attachment 6: Section 83.230 and 83.360	Ecology: Compliant: <i>Both SMP sections referenced appear consistent with this Guideline requirement. 83.230 provide transportation specific standards encouraging consideration of location and design to minimize impacts to shoreline resources. 83.360 provides higher level no net loss of ecological function goals including mitigation sequencing framework to avoid, minimize and then mitigate potential impacts.</i>
Circulation system plans include systems for pedestrian, bicycle, and public transportation where appropriate. WAC 173-26-241(3)(k)	Section 83.230.5 (see Attachment 6)	Ecology: Compliant: <i>The referenced section of the SMP appears consistent with this Guideline requirement through references to public access, pedestrian and bicycle opportunities associated with future transportation uses.</i>
Parking allowed only as necessary to support an authorized shoreline use and which minimize environmental and visual impacts of parking facilities. WAC 173-26-241(3)(k)	Section 83.440 (see Attachment 6)	Ecology: Compliant: <i>As referenced the City has developed specific parking standards that have been incorporated into the SMP. Consistent with Guidelines; parking is prohibited within shoreline setback areas (except under standard 3.b.1.a), prohibited overwater and can only be allowed within shoreline jurisdiction (upland areas) if associated with an approved shoreline use.</i>
Utilities. WAC 173-26-241(3)(l)		
Design, location and maintenance of utilities required to assure no net loss of ecological functions. WAC 173-26-241(3)(l)	See the following sections in Attachment 6: Section 83.240 and 83.360.	Ecology: Compliant: <i>The referenced sections of the City's SMP appear consistent with this Guideline requirement.</i>
Utilities required to be located in existing rights-of-ways whenever possible. WAC 173-26-241(3)(l)	Section 83.240.1 (see Attachment 6)	Ecology: Compliant: <i>As referenced by the City, section 83.240.1 specifically requires co-location of utilities when possible.</i>
Utility production and processing facilities and transmission facilities required to be located outside of SMA jurisdiction , unless no other feasible option exists. WAC 173-26-241(3)(l)	See the following sections in Attachment 6: Section 83.170 and Section 83.240.1	Ecology: Compliant: <i>The referenced sections of the City's SMP appear consistent with this Guideline requirement.</i>

SMP ADMINISTRATIVE PROVISIONS		
The statement: "All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program" whether or not a permit is required. WAC 173-26-191(2)(a)(iii)(A)	Section 141.40.2 of SMP (see Attachment 6)	Ecology: Compliant: <i>The referenced sections of the SMP appear consistent with this Guideline standard.</i>
Administrative provisions ensure permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property. WAC 173-26-186(5) and WAC 191(2)(a)(iii)(A)	Section 141.70.3 - Variances (see Attachment 6)	Ecology: Compliant: <i>The referenced sections of the SMP appear consistent with this Guideline standard.</i>
Identification of specific uses and development that require a shoreline conditional use permit (CUP) . Standards for reviewing CUPs and variances conform to WAC 173-27. WAC 191(2)(a)(iii)(B) and WAC 173-26-241(2)(b)	Section 83.170 Shoreline Environments, Permitted Uses and Activities Chart (see Attachment 6) Section 141.70.2 and 3 contain standards for reviewing CUPs and variances, referring to the provisions contained in WAC 173-27-160 and WAC 173-27-170, respectively (see Attachment 6)	Ecology: Compliant: <i>The referenced sections of the City's SMP appear consistent with this Guideline requirement.</i>
Administrative, enforcement, and permit review procedures conform to the SMA and state rules (see RCW 90.58.140, 143, 210 and 220 and WAC 173-27). WAC 191(2)(a)(iii)(C), WAC 173-26-201(3)(d)(vi)	Chapter 141 (see Attachment 6)	City Comment: Portions of WAC 173-27 adopted by reference Ecology: Compliant: <i>The referenced sections of the City's SMP appear consistent with this Guideline requirement.</i>

<p>Mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas. WAC 173-26-191(2)(a)(iii)(D)</p>	<p>The City contains provisions to ensure that mitigation sequencing is used during individual project review under Section 83.360 (see Attachment 6). Mitigation sequencing prioritizes first avoiding impacts through project redesign of location, then minimization of impacts through utilization of Best Management Practices or conditioning of permit decisions. Finally, project mitigation can be developed to offset any unavoidable impacts from allowed or preferred shoreline uses.</p>	<p>City Comment: The Cumulative Impact Analysis prepared as part of the City's SMP update (see Attachment 8) indicates that anticipated cumulative impacts should not result in any net loss in shoreline ecological functions.</p> <p>Ecology: Compliant – Ecology to review and provide the City with comment prior to Council Review of the SMP.</p> <p>City Response: Tracking will occur once the SMP is in effect and when the next SMP update will occur. The City will add this tracking task to the Implementation Chapter of its Comprehensive Plan as part of the 2010 Plan update. Evaluation will occur with the next SMP update.</p> <p>Based on past development records, the City has had very few shoreline permits over the years and there are only a few vacant properties remaining. The City anticipates very few new proposals between now and the next SMP update.</p>
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<p>SMP definitions are consistent with all definitions in WAC 173-26-020, and other relevant WACs.</p>	<p>Section 83.80 Definitions (see Attachment 6)</p>	<p>Ecology: Compliant: See changes noted in the City's Response below (June 2010).</p> <p><i>Section 83.80 defines "Appurtenance" as including those listed under WAC 173-14-040 as well as adding "tool sheds, greenhouses, swimming pools, spas, accessory dwelling units and other accessory structures common to a single family residence". WAC 173-27-040(2)(g) provides a more limited definition only referencing the following structures as "appurtenances": "...garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark"</i></p> <p>Requirement:</p> <ul style="list-style-type: none"> <i>The City's definition of "Appurtenances" appears too broad, for which Ecology would not support exempt protection (WAC 173-27-040(2)(c)) for all of the additional structures listed within this definition in the draft SMP.</i> <p>City Response: The definition of "appurtenances" has been revised to reflect WAC 173-14-040.</p>
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