

1. Agenda

Documents:

[AGENDA.PDF](#)

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Documents:

[PARK IMPACT FEES.PDF](#)

[SHORELINE CODE UPDATE.PDF](#)



PLANNING COMMISSION AGENDA

April 8, 2019 – 6:30 PM

Stanwood Fire Station (8117 267th Pl NW)

1. Call to Order
2. Roll Call
3. Public Requests and Comments
4. New Business
 - Park Impact Fees
 - Shoreline Code Update
5. Old Business
6. Miscellaneous Business
7. Public Comments
8. Recent Council Action on Commission Items
9. Upcoming Items
10. Adjourn

For information about this agenda, contact the Community Development Department at 360-629-2181 ext. 5211.

SPECIAL ACCOMMODATIONS: The City of Stanwood strives to provide accessible meetings for people with disabilities. Please contact the Planning Commission Clerk at 360-629-2181 ext. 5211 two business days prior to the meeting.



CITY OF STANWOOD Planning Commission AGENDA STAFF REPORT

DATE: April 8, 2019

SUBJECT: Impact Fees

CONTACT PERSON: Patricia Love, Community Development Director

ATTACHMENTS: 2019 Impact Fee Comparison

Issue

One of the City's 2019 / 2020 work items is to review and potentially update the City's park impact fees. The City's Park Impact Fee ordinance was last updated in December of 2017; just over a year ago. However, while the fee is fairly newly adopted, Council has asked staff to review the costs associated with projects and what is the fairest distribution of those costs.

Background

Cities have authority impact fees under RCW 82.02.060. This section of state law requires cities to adopt impact by ordinance which includes the following elements:

1. Include a schedule fees by type of development
2. The fee must be based upon a formula that includes:
 - (a) Cost of public facilities necessitated by new development;
 - (b) An adjustment to the cost for user fees, debt service payments, taxes, or other payments earmarked for the particular system improvement;
 - (c) The availability of other means of funding public facility improvements;
 - (d) The cost of existing public facilities improvements; and
 - (e) The methods by which public facilities improvements were financed;
3. May provide an exemption for low-income housing, provided that the impact fees is paid from public funds other than impact fee accounts;
4. May provide an exemption from impact fees for low-income housing up to 80%;

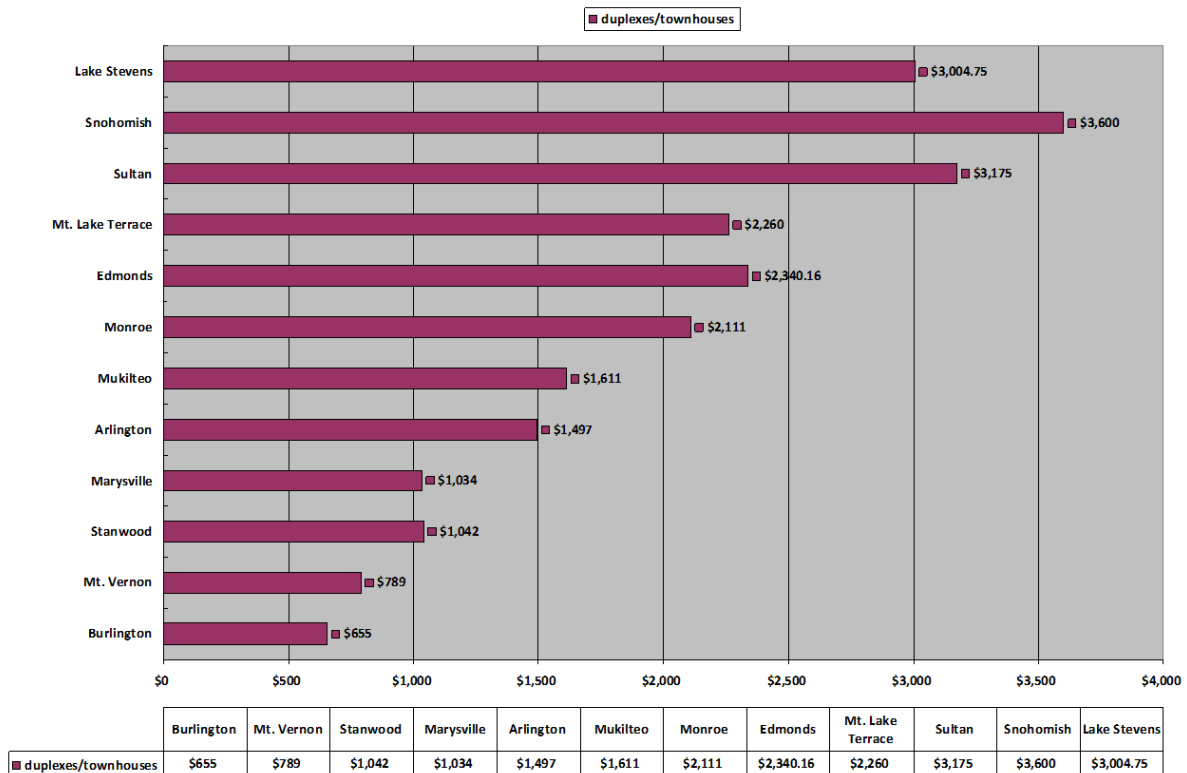
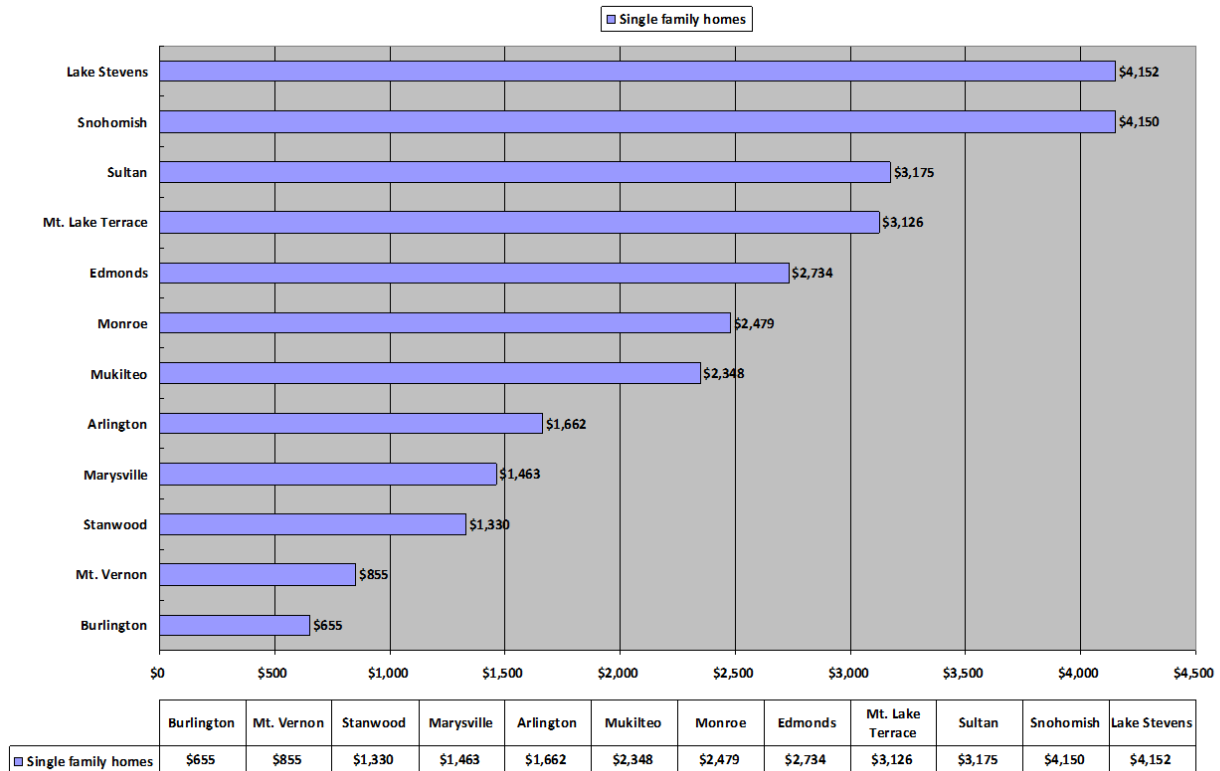
5. Provide a credit for the value of any dedication of land, improvement to, or new construction of projects identified in the capital facilities plan;
6. Includes a provision that allows Cities to adjust the fee on a case by case basis, with justification, to ensure that impact fees are imposed fairly;
7. Include a provision in the ordinance that allows developers to submit studies and data that could adjust the fee;
8. Establish services areas; and
9. Allows cities to include in the impact fee calculation system improvements incurred prior to development but which that new growth will use.

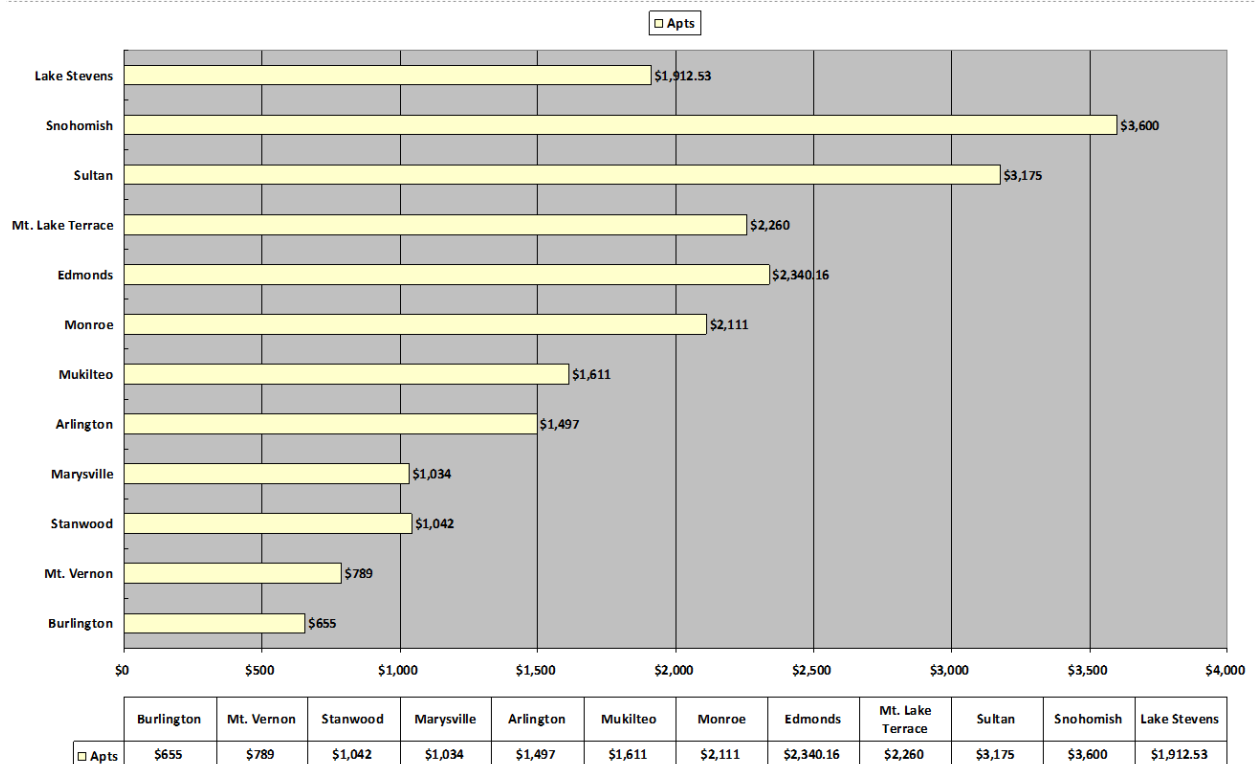
Comparison of Park Impact Fees:

Comparison of impact fees with other jurisdictions is always a question asked by Councilmembers and Commissioners. While this is good information to know what our neighbors are charging, it should also be reviewed with caution as the fee is determined by their parks capital improvement plan.

2019 Impact fees			
Jurisdiction	SFR	Duplex / Townhouse	MF
Stanwood	\$1,330	\$1,042	\$1,042
Arlington	\$1,662	\$1,497	\$1,497
Monroe	\$2,479	\$2,111	\$2,111
Sultan	\$3,175	\$3,175	\$3,175
Mt Vernon	\$855	\$789	\$789
Lk Stevens	\$4,155	\$3,005	\$1,913
Mukilteo	\$2,348	\$1,611	\$1,611
Edmonds	\$2,734	\$2,340	\$2,340
Mt Lk Terrace	\$3,126	\$2,260	\$2,260
Marysville	\$1,463	\$1,034	\$1,034
Burlington	\$655	\$655	\$655
Snohomish	\$4,150	\$3,600	\$3,600

Below are a series of charts showing the comparison of park impacts fees and how Stanwood's fee ranks in comparison.





These charts show that the Stanwood fee is consistently lower than the majority of cities in the county. Mt. Vernon is provided as a comparison due to its proximity to Stanwood even though it is in Skagit County.

Next Steps:

To continue this conversation, staff will be evaluating the City's formula and project costs to determine the appropriate fee.

This is an introduction item to the Planning Commission; no formal action is required at that time.

CITY OF STANWOOD
Stanwood, Washington

ORDINANCE 1445

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) CHAPTER 17.151.070 ENTITLED "PARK AND RECREATION IMPACT FEE COMPONENT"; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has considered amendments to Stanwood Municipal Code (SMC) Chapter 17.151.070 entitled "Park and recreation impact fee component"; and

WHEREAS, by amending SMC Chapter 17.151.070, park and recreation impact fees will be updated and clarified to be consistent with City policy; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. SMC Chapter 17.151.070 is hereby amended as shown in attached Exhibit 1 which is incorporated by this reference as though fully stated herein.

Section 2. Severability. The various parts, sections and clauses of this ordinance and Exhibit 1 are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 3. Effective Date. This Ordinance shall become effective five (5) days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this 14th day of December, 2017.

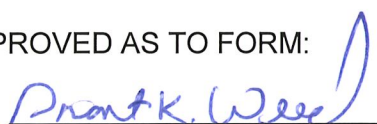
CITY OF STANWOOD


Leonard Kelley, Mayor

ATTEST:

By: 
David A. Hammond, City Clerk

APPROVED AS TO FORM:

By: 
Grant Weed, City Attorney

Date of Publication: 12/19/17

Effective Date: 12/24/17

17.151.070 Park and recreation impact fee component.

The impact fee component for parks and recreational facilities shall be calculated using the following formula described below, however the resulting fee will be implemented at 50 percent:

$$PIF = \frac{C \times S \times U \times A}{P}$$

- (1) "PIF" means the park and recreational facility component of the total development impact fee.
- (2) "C" means the average cost per acre for land appraisal and acquisition plus an average development cost of ~~\$50,000~~ \$320,075 per acre for neighborhood and community parks. Such cost may be adjusted periodically, but not more often than once every year. Park development costs shall be based on actual, recent comparable construction ~~and shall include associated project improvements such as streets~~.
- (3) "S" means the parks standard ~~in~~ of 2.5 acres per 1,000 residents each for neighborhood and community parks (total of 5 acres) as established in the city comprehensive park and recreational plan ~~to total 10 acres~~.
- (4) "P" means 1,000 people.
- (5) "U" means the average number of occupants per dwelling unit, ~~or 2.4~~ 2.77 occupants for a single-family/duplex dwelling unit, ~~4.7~~ 2.17 occupants for any other multifamily dwelling unit.
- (6) "A" means an adjustment of rate portion of anticipated tax revenues resulting from a development that is proratable to system improvements contained in the capital plan facilities. The adjustment for park impacts is determined to be 40 percent, so that "A" equals 60 percent. (Ord. 1164 § 4, 2004; Ord. 886 § 7, 1993).
- (5) "



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

10220 270th St NW
Stanwood, WA 98292
360-629-4577

TO: PLANNING COMMISSION
FROM: Patricia Love, Community Development Director
SUBJECT: Shoreline Master Plan Code Update
DATE: April 8, 2019

SHORELINE MANAGEMENT CODE UPDATE SUMMARY:

The Shoreline Management Act requires all jurisdictions review and update their Shoreline Management Plans on an eight (8) year schedule established by the Legislature. This review ensures that local SMP's stay current with changes in state laws and rules, remains consistent with other Stanwood plans and regulations, and is responsive to changing circumstances, new information and improved data.

Stanwood is required to update its SMP on or before June 30, 2019. The State is not requiring any major updates to our inventory, restoration efforts, or cumulative impacts analysis. However, we must include all state mandated updates between 2007 and 2017 as well as any local changes which have occurred since the last SMP adoption.

Below is a summary of the state mandated changes and the City's response to those mandates. The draft code is out for the required 30 day public review; our tentative schedule shows the Planning Commission holding a public hearing on the amendment on May 20th with City Council review on June 13 and 27.

General State Mandated Amendments:

- Definitions:
Amended definitions of "Development", "Floodway", "Nonconforming Uses, Structures, and Lots", and Wetlands

- Exemptions:
Eliminated the long list of state listed exemptions from the Stanwood Municipal Code and referenced RCW 90.58.030 or WAC 173-27-040.

- Exceptions:
Added a new section to the Stanwood Municipal Code listing the state mandated exceptions which include:
 - Remedial Actions
 - Boat Yard Improvements
 - WSDOT Facility Maintenance and Safety Inspections
 - Projects Under the Environmental Excellence Program
 - Project Authorized by the Energy Facility Site Evaluation Council
 - Areas under Exclusive Federal Jurisdiction

- Procedures:
Updated Stanwood Municipal Code Chapter 17.150, Shoreline Management, with state mandated procedures for processing permits, notification to Ecology and adoption of Shoreline Master Plans.

- Non-Conforming Uses:
Established clear definitions and regulations for non-conforming uses, structures and lots.

- Critical Areas:
Updated wetland buffer widths per the Department of Ecology's 2018 guidance documents and changed the wetland delineation methodology to follow the federal manual.

City Suggested Amendments:

- Update the SMP regulations allowing multifamily residential structures in the Shoreline Residential Designation consistent with an administrative interpretation issued on October 5, 2015.

- Update the critical areas regulations notes that trails and walkways within buffer areas should meet federal accessibility requirements.

- Updated the stream buffer types to reflect the Department of Natural Resources (DNR) stream typing codes.

PLANNING COMMISSION ACTION:

Review the draft Shoreline Code Amendment and set the date of May 20, 2019 for the public hearing on the draft code.



City of Stanwood
Stanwood, Washington
Shoreline Master Plan Periodic Update
SMP Checklist • April 2019

The Washington State Shoreline Management Act requires Cities and Counties to update their Shoreline Master Plans every eight (8) years on a staggering schedule off set from the Comprehensive Plan updates. The Legislature requires that all cities in King, Pierce and Snohomish Counties update their Shoreline Master Plans by June 30, 2019.

Stanwood last updated its Shoreline Master Plan in October of 2014; therefore, this periodic update will focus on amendments to state law, rules and changes in local circumstances since the City's SMP was adopted.

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger an update to Stanwood's Shoreline Master Plan. The review column shows the City's response to those laws and rules. The action column will be filled out with the City's final changes to the Shoreline Master Plan and Regulations.

State Law and Regulations:

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SMC 17.150.067, Exemptions, lists exemptions allowed under state law. Update this section to reference state statute RCW 90.58.030 to avoid the need for future changes.	SMC 17.150.067 removed exemption list and noted that exemptions are listed in RCW 90.58.030 and WAC 173-27-040. (Attachment D; pg 17)
b.	Ecology amended rules to clarify that the definition of "development" does not include dismantling or removing structures.	SMC 17.20.050 "D" includes the definition of "Development". Update this definition to include Ecology's new recommended language.	SMC 17.20.050 "D" was updated with state recommendations on the definition of Development. (Attachment A; pg 4)
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	Create a new section to call out exceptions separately from exemptions.	New section SMC 17.150.067A was created adopting recommended state language. (Attachment D; pg 21)

Row	Summary of change	Review	Action
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	SMC 17.150.080, Rulings to State, references state law; no amendment needed.	No Action Required
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	Update SMC 17.20.050 “D” to include the definition of Development as it relates to Forest Practice permits.	SMC 17.20.050 “D” was updated with state recommendations to exclude timber cutting from the definition of Development. (Attachment A; pg 4)
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Add Federal jurisdiction exclusion to new exceptions section.	New section SMC 17.150.067A was created adopting recommended state language; exclusive federal jurisdiction is noted in subsection 6. (Attachment D; pg 22)
g.	Ecology clarified “default” provisions for nonconforming uses and development .	Update SMC 17.150.064, 065, 066 and 17.20.150 “N” to reflect rules and definitions relating to Nonconforming Uses, Buildings and Lots.	SMC SMC 17.150.064, 065, 066 were updated to provide specific regulations to each non-conforming issue: uses, structures and lots. (Attachment D; pg 14-18) SMC 17.20.150 “N” was updated to provide separate definitions for non-conforming uses, structures and lots. (Attachment A; pg 4-5)
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	Update SMC 17.150.087 to reflect periodic review option.	SMC 17.150.087 was updated to reflect state recommended language regarding SMP periodic review option. (Attachment D; pg 22)
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	SMC 17.150.087 currently references Chapter 173-26 WAC; no amendment needed.	No Action Required.
j.	Submittal to Ecology of proposed SMP amendments.	Add reference to WAC 173-26-110 to SMC 17.150.091.	SMC 17.150.091 was updated with the RCW and WAC

Row	Summary of change	Review	Action
			references as recommended by the state. (Attachment D; pg 22)
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	Add ADA Exemption to SMC 17.150.067 (or eliminate entire list and simply reference RCW 90.58.030)	SMC 17.150.067 removed exemption list and noted that exemptions are listed in RCW 90.58.030 and WAC 173-27-040. (Attachment D; pg 17)
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Update SMC 17.114, Critical Areas, Wetlands and Streams with Ecology's methodology and buffer requirements.	SMC 17.125.060 was updated to include Ecology's recommended wetland buffer widths and delineations were to be determined using the federal manual. (Attachment B; pg 6-8)
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Update SMC 17.150.061, 17.81A and 17.81B, review procedures, to include WSDOT permit review targets.	SMC 17.150.061 was updated include new subsection 3 identifying the target period to issue WSDOT permits. (Attachment D; pg 15)
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	Update SMC 17.150.067 with new dollar thresholds to require a Substantial Development Permit on dock replacements and repair.	SMC 17.150.067 removed exemption list and noted that exemptions are listed in RCW 90.58.030 and WAC 173-27-040. (Attachment D; pg 17)
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	There are no FOWR's in Stanwood; however, the Planning Commission may want to consider adding them to the list of prohibited uses listed in SMC 17.150.029.	SMC 17.150.029 Permitted Use Table was updated to prohibit floating dwelling units. (Attachment D; pg 13)
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	SMP appeal process not outlined in the SMC.	No Action Required.

Row	Summary of change	Review	Action
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Update SMC 17.114, Critical Areas, Wetlands and Streams with Ecology's methodology and buffer requirements.	SMC 17.20.240 "W", wetlands definition was updated to reflect the requirement to delineate wetlands using the federal manual. (Attachment A; pg 5)
b.	Ecology adopted rules for new commercial geoduck aquaculture .	No geoduck aquaculture in Stanwood.	No Action Required.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	There are no floating homes in Stanwood.	No Action Required.
d.	The Legislature authorized a new option to classify existing structures as conforming .	Review SMC 17.150.064 to determine if wetland or stream buffer changes create non-conforming buildings and if so consider classifying those residential buildings along Church Creek as conforming structures.	No changes were made to SMC 17.150.064 specific to wetlands; New non-conforming structures section will cover the issue. Variances from SMP's are allowed and can be applied to any potential encroachment.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	The SMC does not reference the "effective date" of SMP amendments.	No Action Required.
2009			
a.	The Legislature created new "relief" procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	Changes in the OHWM from restoration projects are exempt from SMP requirements are listed in SMC 17.150.067(17).	No Action Required.
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Mitigation Banks are encouraged: SMC 17.114.180.	No Action Required.

Row	Summary of change	Review	Action
c.	The Legislature added moratoria authority and procedures to the SMA.	Moratorium criteria listed in SMC 17.150.085.	No Action Required.
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Update floodway definition in SMC 17.20.050 "F".	SMC 17.20.050 "F" – definition of floodway was updated per state recommendations. (Attachment A; pg 4)
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Rivers and streams are noted in several places: SMP and critical areas regulations. SMC 17.150.012: Shoreline Overlay Districts SMC 17.150.022: No Net Loss of Ecological Functions SMC 17.130.060: Standard Buffer Width Requirements	No Action Required
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	Fish habitat enhancement projects are exempt from the Shoreline Substantial Development permit process: SMC 17.150.067(15).	SMC 17.150.067 removed exemption list and noted that exemptions are listed in RCW 90.58.030 and WAC 173-27-040. (Attachment D; pg 17)

Stanwood SMP Clarification:

Multifamily Residential Dwellings			
	The City of Stanwood issued an administrative interpretation declaring MF residential structures are allowed in the Shoreline Residential Designation.	SMC 17.150.014, Shoreline Purpose, 17.150.029, Permitted Use Table, and other relevant sections will be updated to reference multifamily residential structures.	SMC 17.150.029, Permitted Use Matrix, was updated to note that multifamily dwelling units are allowed in the shoreline jurisdiction per the underlying zoning. (Attachment D; pg 13)

Stanwood Changing Circumstances:

Shoreline Public Access and Uses			
	Review the regulations within the shoreline environment to identify possible locations to provide public access and recreational activities along the Stillaguamish River on publicly owned land.	SMC 17.150.014, Shoreline Purpose, 17.150.029, Permitted Use Table, and other relevant sections will be evaluated and updated to allow public access and recreational uses such as trails, boardwalks, open space areas, viewpoints, and /or wetland enhancement areas.	SMC 17.30.060 stream buffers were updated to match the DNR rating system. (Attachment C; pg 9) SMC 17.150.025, Public Access, was updated to note that public viewing area, walkways and trails need to be built to federal accessibility standards. (Attachment D; pg 10-12)

CITY OF STANWOOD

WASHINGTON

ORDINANCE NO. 14XX

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING PORTIONS OF STANWOOD MUNICIPAL CODE TITLE 17 ENTITLED ZONING AND RELATING TO AMENDMENTS TO THE CITY'S SHORELINE MASTER PLAN WHICH INCLUDE AMENDING STANWOOD MUNICIPAL CODE CHAPTER 17.20, DEFINITIONS; CHAPTER 17.125, WETLANDS; CHAPTER 17.130, FISH AND WILDLIFE HABITAT CONSERVATIONS AREA; CHAPTER 17.150, SHORELINE MANAGEMENT; AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the State of Washington enacted the Shoreline Management Act (RCW 90.58) in 1971; and

WHEREAS, the Washington State Shoreline Management Act requires Cities and Counties to update their Shoreline Master Plans every eight years on a staggering schedule off set from the Comprehensive Plan updates; and

WHEREAS, the Legislature requires that all Cities in King, Pierce, and Snohomish Counties to update their Shoreline Master Plans by June 30, 2019; and

WHEREAS, Stanwood last updated its Shoreline Master Plan in October of 2014; and

WHEREAS, the State is not requiring major updates to the City's inventory, restoration efforts, or cumulative impacts analysis; and

WHEREAS, the City of Stanwood's Shoreline Master Plan update focuses on state mandated amendments between 2007 and 2017 and minor local code changes relating to parks and access along the Stillaguamish River; and

WHEREAS, the Ecology Review Checklist has been updated with the City's proposed actions to maintain compliance with state mandates; and

WHEREAS, a Public Participation Plan was adopted by the City Council on June 14, 2018 detailing the City's proposal to provide public input into the update process; and

WHEREAS, this matter was duly referred to and was considered by the Planning Commission; and

WHEREAS, pursuant to RCW 36.70A. 106, on April 1, 2019 the City notified the State of Washington of its intent to adopt amendments to its development regulations; and

WHEREAS, the Planning Commission held several public meetings on June 11, June 25, July 9, and September 24, 2018 and on March 11 and April 8, 2019 to review the proposed shoreline code amendments; and

WHEREAS, the Audubon Membership Committee held their regular public meeting at the PUD office building in Stanwood on July 13, 2018 where shoreline land uses and shoreline issues were discussed; and

WHEREAS, the Parks / Trails Advisory Committee held a public meetings on September 10, 2018, where shoreline land uses and shoreline issues were discussed; and

WHEREAS, the City of Stanwood SEPA Responsible Official reviewed the amendments and issued a Determination of Non-significance (DNS) on April 9, 2019; and

WHEREAS, on XXXXX, 2019, the public hearing notice was printed in the Stanwood Camano News as required by law that a public hearing was to be held by the Planning Commission and all persons wishing to provide public input concerning the proposed amendments set forth in this Ordinance were heard; and

WHEREAS, the Planning Commission held a public hearing on XXXXX, 2019 to consider all relevant matters, and heard all parties in support or opposition, and subsequently forwarded a recommendation to the City Council;

WHEREAS, the City Council Community Development Committee reviewed the proposed amendments set forth in this Ordinance on XXXX, 2019 meetings; and

WHEREAS, the City Council reviewed the recommendation of the Planning Commission and the Community Development Committee at their XXXXX, 2019 regular meeting and accepted public comment; and

WHEREAS, the City Council has determined that it is in the best interest of the City and in the interest of the public health, safety and welfare of the City and its citizens to amend Title 17 relating to shoreline regulations, as further set forth in this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. SMC 17.20, Definitions. Chapter 17.20, Definitions, of the Stanwood Municipal Code is hereby amended to revise and include the definitions as set forth in Attachment A, by reference as though fully set forth herein.

Section 2. SMC 17.125, Critical Areas – Wetlands – Specific Standards. Portions of Chapter 17.125, Critical Areas – Wetlands- Specific Standards, of the Stanwood Municipal Code is hereby amended to read as set forth in Attachment B, by reference as though fully set forth herein.

Section 3. SMC 17.130, Critical Areas – Fish and Wildlife Habitat Conservation Areas – Specific Standards. Portions of Chapter 17.130, Critical Areas – Fish and Wildlife Habitat Conservation Areas- Specific Standards, of the Stanwood Municipal Code is hereby amended to read as set forth in Attachment C, by reference as though fully set forth herein..

Section 4. SMC 17.150, Shoreline Management. Portions of Chapter 17.150, Shoreline Management, of the Stanwood Municipal Code is hereby amended to read as set forth in Attachment D, by reference as though fully set forth herein..

Section 5. Findings of Fact and Conclusions. In support of the amendment approved in this Ordinance the Stanwood City Council adopts the Findings of Fact and Conclusions attached hereto as Attachment E and incorporated herein by reference and the analysis contained in the Staff Report on the amendments.

Section 6. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 7. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 8. Conflict. In the event that there is a conflict between the provision of this Ordinance and any other City ordinance, the provision of this Ordinance shall control.

Section 9. Effective Date. This Ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this XX day of XXXXX 2019.

CITY OF STANWOOD

Leonard Kelley, Mayor

ATTEST:

By: _____
David Hammond, City Clerk

APPROVED AS TO FORM:

By: _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date: _____

DRAFT

Attachment A
Amendments to Stanwood Municipal Code Chapter 17.20,
Construction of Language - Definitions

17.20.050 “D” Definitions

Development.

(1) For the purposes of Chapter [17.120](#) SMC, Critical Areas – Frequently Flooded Areas – Specific Standards, “development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

(2) For the purposes of Chapter [17.150](#) SMC, Shoreline Management, “development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving or piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. **Development does not include dismantling or removing structures if there is no other associated development or re-development. In addition, a forest practice that only involves timber cutting is not a development under the Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit as required by WAC 222-50-020.**

(3) Except for purposes of Chapter [17.120](#) SMC, Critical Areas – Frequently Flooded Areas – Specific Standards, and Chapter [17.150](#) SMC, Shoreline Management, “development” means: the placement or erection, of any fill, solid material, or structure on land, in or under the water; or the construction, reconstruction, or alteration of the size of any structure; development shall not be defined or interpreted to include improvement made in the interior of any structure.

17.20.070 “F” Definitions

Floodway” (SMP) means the channel of a river or other watercourse and the adjacent land areas that have been established in Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) or floodway maps. **The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control device maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.**

17.20.150 “N” Definitions

~~Nonconforming use, structure or site” (SMP) means a utilization of land or structures or both, legally established prior to the effective date of this code, which would not be permitted as a new use in the~~

zone in which it is located under the terms of this code or which does not meet current standards for setbacks, buffers, vegetation conservation, landscaping, public access, screening or other regulations in which it is located due to changes in regulations or annexation

Nonconforming Use (SMP) means an existing shoreline use that was lawfully established prior to the effective date of the Act or the applicable Master Program, but which does not conform to present use regulations due to subsequent changes to the Master Program.

Nonconforming Development (SMP) or Nonconforming Structure (SMP) means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers, or yards; area; bulk; height; or density standards due to subsequent changes to the Master Program.

Nonconforming Lot (SMP) means a lot that met dimensional requirements of the applicable Master Program at the time of its establishment but now contains less than the required width, depth, or area due to subsequent changes to the Master Program.

17.20.240 “W” Definitions.

“Wetlands” or “wetland areas” (SMP) means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. ~~For identifying and delineating a regulated wetland, the methodology specified by the Department of Ecology shall be utilized.~~ **For identifying and delineating a regulated wetland, the currently approved federal manual and regional supplements shall be utilized.**

Attachment B
Amendments to Stanwood Municipal Code Chapter 17.125,
Critical Areas, Wetlands

17.125.040 Wetland designation – SMP.

Wetlands are those areas delineated in accordance **with the currently approved federal manual and regional supplements** with the standards listed in WAC [173-22-035](#). All areas within the city of Stanwood that meet the wetland designation criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. **Once a wetland has been delineated, those wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology).**

17.125.060 Standard buffer width requirements – SMP.

Buffers shall be required for all wetlands regulated by this chapter. Required wetland buffer widths are as stated in this section.

(1) Required widths for wetland buffers are identified in the following table:

Wetland Buffer Requirements				
Wetland category	Standard buffer width	Additional buffer width if wetland scores 21—25 habitat points	Additional buffer width if wetland scores 26—29 habitat points	Additional buffer width if wetland scores 30—36 habitat points
Category I: Based on total score	75 ft	105 ft	165 ft	225 ft
Category I: Bogs	190 ft	N/A	N/A	225 ft
Category I: Natural Heritage Wetlands	190 ft	N/A	N/A	225 ft

Wetland Buffer Requirements				
Category I: Coastal Lagoons	150 ft	N/A	165 ft	225 ft
Category I: Forested	75 ft	105 ft	165 ft	225 ft
Category I: Estuarine	150 ft	N/A	N/A	N/A
Category II: Based on score	75 ft	105 ft	165 ft	225 ft
Category II: Interdunal Wetlands	110 ft	N/A	165 ft	225 ft
Category III (all)	60 ft	105 ft	165 ft	N/A
Category IV (all)	40 ft	N/A	N/A	N/A

(1)(a) For Category I Wetlands:

	Buffer Width (in feet) based on habitat score		
<u>Wetland Category</u>	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I: Based on Total Score</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category I: Bogs and Wetlands of High Conservation Value</u>	<u>190</u>		<u>225</u>
<u>Category I: Interdunal</u>	<u>225</u>		
<u>Category I: Forested</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category I: Estuarine and Coastal Lagoons</u>	<u>150</u>		

(1)(b) For Category II Wetlands:

	Buffer Width (in feet) based on habitat score		
<u>Wetland Category</u>	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category II: Based on Total Score</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category II: Interdunal Wetlands</u>		<u>110</u>	

(1)(c) For Category III Wetlands:

<u>Wetland Category</u>	<u>Buffer Width (in feet) based on habitat score</u>		
	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category III: All</u>	<u>60</u>	<u>110</u>	<u>225</u>

(1)(d) For Category IV Wetlands:

<u>Wetland Category</u>	<u>Buffer Width (in feet) based on habitat score</u>		
	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category IV: All</u>	<u>40</u>		

Attachment C
Amendments to Stanwood Municipal Code Chapter 17.130,
Critical Areas, Fish and Wildlife Habitat

17.130.060 Standard buffer width requirements.

Buffers shall be required for all streams regulated by this chapter. Required stream buffer widths are as stated in this section.

(1) Required widths for stream buffers are as follows:

(a) For Type 4 **S** streams – 150 feet;

~~(b) For Type 2 streams – 150 feet;~~

~~(c)~~ **b** For Type 3 **F** streams – 100 feet;

~~(d-c)~~ For Type 4 **Np** streams – 75 feet; and

~~(e d)~~ For Type 5 **Ns** streams – 50 feet.

Attachment D
Amendments to Stanwood Municipal Code Chapter 17.150, Shoreline Management

17.150.025 Public Access (Subsections 6 and 7)

(6) Design Criteria for Public Access. Public access shall incorporate the following location and design criteria:

- (a) The public access area shall be designed to be a comfortable and safe place to visit.
- (b) Proximity to Water's Edge. Public access shall be provided as close as possible to the water's edge to provide the general public with opportunity to reach, touch, view, and enjoy the water's edge and shall be as close horizontally and vertically to the shoreline's edge as feasible; provided, that public access does not adversely affect sensitive ecological features or lead to an unmitigated reduction in ecological functions.
- (c) Walkways or Trails in ~~Vegetated Buffers~~ **Critical Areas**. Public access on sites where vegetated open space is provided along the shoreline may consist of a public pedestrian walkway roughly parallel to the ordinary high water mark of the property. The walkway shall be buffered from sensitive ecological features, may be set back from the water's edge, and may provide limited and controlled access to sensitive features and the water's edge where appropriate. Fencing may be provided to control damage to plants and other sensitive ecological features and where appropriate. Trails shall be constructed of permeable materials, when feasible, and limited to five feet in width to reduce impacts to ecologically sensitive resources, except for portions of the walkways or trails designed for ADA access.
- (d) Access Requirements for Sites without ~~Vegetated Buffers~~ **Critical Areas**. Public access on sites or portions of sites not including vegetated open space, such as water-dependent uses, shall include not less than 10 percent of the developed area within shoreline jurisdiction or 3,000 square feet, whichever is greater, on developments including non-water-dependent uses. For water-dependent uses, the amount and location may be varied in accordance with the criteria in subsection (10) of this section. Public access facilities shall extend along the entire water frontage, unless such facilities interfere with the functions of water-dependent uses. The minimum width of public access facilities shall be 10 feet and shall be constructed of materials consistent with the design of the development. Facilities addressed in the city transportation plan shall be developed in accordance with the standards of that plan.
- (e) Access Requirements for Over-Water Structures. Public access on over-water structures on public aquatic lands shall be provided and may include common use of walkway areas.
- (f) Connections. Public access shall be located adjacent to other public areas, accesses, and connecting trails where feasible and connected directly to the nearest public street and shall include provisions for handicapped and physically impaired persons, where feasible.
- (g) Parking Requirements. Where public access is within 400 feet of a public street, on-street public parking shall be provided where feasible. For private developments required to provide more than 20 parking spaces, public parking may be required in addition to the required parking for the development at a ratio of one space per 1,000 square feet of public access area up to three

spaces and at one space per 5,000 square feet of public access area for more than three spaces. Parking for public access shall include the parking spaces nearest to the public access area and may include handicapped parking if the public access area is handicapped accessible.

(h) **Planned Trails.** Where public trails are indicated on the city's transportation, park, or other plans, trails shall be provided within shoreline and nonshoreline areas of a site.

(i) **Privacy.** Public access shall be designed to provide for public safety and to minimize potential impacts to private property and individual privacy by avoiding locations adjacent to residential windows and/or outdoor private residential open spaces or by screening or providing a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.

(j) **Public Access Required for Occupancy.** Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.

(k) **Easement Recorded.** Public access permit conditions on private land shall run with the land and shall be recorded via a legal instrument such as an easement, on the deed of title and/or a dedication on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, at a minimum. Said recording with the county auditor's office shall occur prior to building occupancy or filing of a final plat, whichever comes first.

(l) **Maintenance Responsibility.** Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or nonprofit agency through a formal recorded agreement. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

(m) **Hours of Access.** Public access facilities shall be available to the public 24 hours per day unless an alternate arrangement is granted through the initial shoreline permitting process for the project. Changes in access hours proposed after initial permit approval shall be processed as a shoreline conditional use.

(n) **Signage Required.** The standard state-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner in conspicuous locations at public access sites. Such signs shall be posted in conspicuous locations on public access sites and at the nearest connection to an off-site public right-of-way.

(o) **Development uses and activities** shall be designed and operated to avoid adversely interfering with the public's physical and visual access to the water and shorelines.

(7) **Public Access Guidelines by Reach.** Public access for new and substantially altered development shall incorporate the following location and design criteria:

(a) **Stillaguamish River Reaches A and B** from the SR 532 bridge to, but not including, Twin City Foods. A public access shall be in the form of a trail parallel to the shoreline. Where the railroad spur is located, the public access should be located to ensure rail and pedestrian safety. Trails should be located on the east side of the rail spur with provision for viewing platforms to provide

for direct access. The public access shall be connected with Saratoga Drive and 269th Place NW. If the rail spur should be abandoned, the city should acquire the right-of-way and develop for public access.

(b) Stillaguamish River Reach C on the Twin City Foods site public access shall be implemented if the nonconforming building is substantially altered in the future to accommodate a trail parallel to the shoreline connecting at each end to SR 532.

(c) Stillaguamish River Reach D from Twin City Foods to Irvine Slough public access shall be developed on the city owned parcel consisting of a trail parallel to the shoreline. Trails should be set back from the water's edge with provision for viewing platforms at the water's edge to provide direct access.

(d) Stillaguamish River Reach E east of Irvine Slough to the city limits public access shall be developed consisting of a trail parallel to the river shoreline and connecting along Irvine Slough to 98th Drive NW and at the east end of the property to 98th Drive NW. Trails **and viewing areas** should be ~~set back from the water's edge with provision for a viewing area near~~ **as close as possible to** the water's edge to provide direct access in the area of the existing smokestack, which should be maintained, if structurally sound, as a visual landmark.

(e) Stillaguamish River Reach F consisting of the sewage treatment facility public access shall not be required unless the facility redevelops in the future.

17.150.029 Permitted Use Table.

Use	Shoreline High Intensity	Shoreline Residential	Urban Conservancy	Essential Public Facility
Low Intensity Scientific, Cultural, Historic, or Educational Use	P	P	P	P
Fish and Wildlife Resource Enhancement	P	P	P	P
Accessory Dwelling Units	U	U ^{2,3}	X	X
Adult Day Care I	U	U ²	X	X
Adult Family Home	U	U ²	X	X
Agriculture	X	p ⁶	p ⁶	p ⁶
Aquaculture and Fish Hatcheries	CU	X	CU	CU
Boat Launches	P	X	P	X
Commercial Retail Uses	U	X	X	X

Use	Shoreline High Intensity	Shoreline Residential	Urban Conservancy	Essential Public Facility
Community and Cultural Services	CU	CU	CU	X
Dwellings, Single-Family Detached	U	U	X	X
Dwellings, Multifamily	U	X <u>U</u>	X	X
<u>Dwellings, Floating on Water</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Eating and Drinking Uses	U	X	X	X
Educational Facilities	CU	CU	X	X
Essential Public Facilities	CU	CU	CU	CU
Golf Courses	X	CU ¹	X	X
Group Homes	U	U ²	X	X
Health Services	U	X	X	X
Home Occupations	U	P	P ⁴	X
Industrial Use	U	X	X	X
Lodging	U	X	X	X
Mining	X	X	X	X
Office Uses	U	X	X	X
Parking Areas Serving Primary Use within the Shoreline	P ³	P ³	P ³	P ³
Parking Areas Not Serving Primary Use within the Shoreline	X	X	X	X
Parks	P ⁷	CU ^{1,2}	CU ^{1,2}	CU ^{1,2}
Passive Recreation	P ⁷	P ¹	P ¹	P ¹
Recreation Facilities in Buildings	CU ^{1,2}	X	X	X
Marinas	CU	X	X	X
Motor Vehicles and Related Equipment Sales/Rental/Repair and Services	U ²	X	X	X

Use	Shoreline High Intensity	Shoreline Residential	Urban Conservancy	Essential Public Facility
Structures for Floodway Management, Including Drainage or Storage and Pumping Facilities	p ⁵	p ⁵	p ⁵	p ⁵
Transportation Facilities – Vehicular – Serving Uses within the Shoreline	p ³	p ³	CU	CU
Transportation Facilities – Vehicular – Serving Uses outside the Shoreline	CU	CU	CU	CU
Trails, Public Pedestrian and Bicycle Not Including Over-Water Trails	p ⁵	p ⁵	p ⁵	p ⁵
Trails, Over-Water	CU	CU	CU	CU
Utilities That Serve Uses within the Shoreline	p ³	p ³	p ³	p ³
Utilities That Serve Uses outside the Shoreline	CU	CU	CU	CU
USES NOT SPECIFIED	CU	CU	CU	CU

17.150.047 Boating facilities – Piers, docks, floats and buoys.

(3) Size.

(a) Length. Maximum length of a pier or dock shall be the minimum necessary to accomplish moorage for the intended boating use and shall be only so long as to obtain a depth of four feet of water as measured at mean low water in marine waters or as measured at ordinary low water in freshwater shorelines at the landward limit of the moorage slip or as demonstrated as needed to provide the depth to serve a specific vessel or class of vessels essential to a specific water-dependent use.

(b) Width. Maximum width of the walkway shall meet ADA requirements ~~not exceed four feet~~ or as demonstrated as essential to serve a specific water-dependent use.

(c) For community piers and docks, maximum width and length will be as determined by the city on a case-by-case basis.

(d) Docks shall not exceed three feet in height above OHWM on the landward side and shall extend above the water surface a maximum of one foot at all other locations or as demonstrated as essential to serve a specific water-dependent use.

17.150.061 Procedure.

- (1)** All shoreline permits shall be processed in accordance with **SMC 17.80, Administration; 17.81A, Procedures; and 17.81B, Types of Land Use Review.** ~~17.80.130, Table of land use procedures.~~
- (2)** **Coordinated Review.** The city will coordinate on issues relating to ecological conditions, functions and processes and on wetland and ordinary high water delineations with the Department of Ecology, the Department of Natural Resources and the Department of Fish and Wildlife as well as other agencies with permit authority over a project to the extent that agencies are timely in their response and coordination does not interfere with meeting timelines for permit review in SMC 17.80.031.
- (3)** **Special Procedures for WSDOT Projects.**
 - (a) Permit Review Time for Projects on a State Highway.** Pursuant to RCW 47.01.485, the **Legislation established a target of 90 days review time for local governments.**
 - (b) Optional Process Allowing Construction to Commence Twenty-One Days After Date of Filing.** Pursuant to RCW 90.58.140, **Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.**

17.150.064 Nonconforming Lots situations.

In addition to the provisions of SMC 17.25.170(3), the following provisions shall apply within SMA jurisdiction:

A nonconforming lot may be developed if permitted by other City land use regulations so long as such development conforms to all other requirements of the applicable Master Program and Act. Within Shoreline Management Act jurisdiction, a variance from the buffer or setback must be processed as a shoreline variance.

17.150.065 Extension or enlargement of nonconforming Structures situations.

In addition to the provisions of SMC 17.25.180, the following provisions shall apply within SMA jurisdiction:

- ~~(1) The expansion or enlargement may not increase its degree of nonconformity in relation to the provisions of the Shoreline Master Program;~~
- ~~(2) The expansion or enlargement may not result in enlargement of the building footprint or impervious area in a critical area buffer that extends further toward the water unless necessary to meet minimum standards of life safety codes; or~~
- ~~(3) The expansion or enlargement may not result in a net loss of ecological functions.~~

- (1) Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks; buffers; yards; area; bulk; height or density may continue as a legal nonconforming structure and may be maintained and repaired.
- (2) Nonconforming structures may be enlarged or expanded provided that the enlargement or expansion does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new structures, unless a shoreline variance permit is obtained.
- (3) Nonconforming single-family residents that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040(2)(g).
- (4) A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- (5) A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable Master Program and the Act.
- (6) If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to the configuration existing immediately prior to the time the development was damaged, provided that an application is made for the permits necessary to restore the development with two years of the date the damage occurred.
- (7) The expansion or enlargement may not result in a net loss of ecological functions.

17.150.066 Change in Non-Conforming Uses use of property where a nonconforming situation exists.

In addition to the provisions of SMC [17.25.200](#), the following provisions shall apply within SMA jurisdiction:

(1) The change in use may not increase its degree of nonconformity in relation to the use provisions of the Shoreline Master Program.

(2) The change in use may not result in a net loss of ecological functions.

(1) Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses.

(2) Nonconforming uses shall not be enlarged or expanded, except upon approval of a conditional use permit.

- (3) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent sue shall be conforming unless re-establishment of the use is authorized through a conditional use permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use included phase or rotational operations as part of typical operations.
- (4) A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
- (a) No reasonable alternative conforming use is practical; and
 - (b) The proposed use will be at least as consistent with the policies and provision of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.
 - (c) Uses shall not become a nuisance or hazard to the general public and the surrounding neighborhood.
 - (d) Conditions may be attached to the permit as are deemed necessary to assure compliance with the requirements of the Master Program and Shoreline Management Act.

17.150.067 Exemption from substantial development permit.

A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to RCW **90.58.030** and WAC **173-27-040** 90-58-140(1). **These exemptions** following shall not be considered substantial developments for the purpose of this Master Program and are exempt from obtaining a shoreline substantial development permit (SSDP); provided, that any additional exemptions established by legislative amendment of the statute shall constitute exemptions without amendment to this code. An exemption from an SSDP is not an exemption from compliance with the Act or the Shoreline Master Program, or from any other regulatory requirements.

- ~~(1) Governor's Certification. Any project with a certification from the Governor pursuant to Chapter 80.50 RCW.~~
- ~~(2) Projects Valued at \$6,416 or Less. Any development of which the total cost or fair market value does not exceed \$6,416 if such development does not materially interfere with the normal public use of the water or shorelines of the state. The \$6,416 level is subject to adjustment for inflation by the office of financial management every five years beginning July 1, 2007.~~
- ~~(3) Maintenance and Repair. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements.~~
- ~~(a) "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.~~

(b) "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource or environment.

(c) Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

(4) ~~Emergency Construction. Emergency construction necessary to protect property from damage by the elements.~~

(a) ~~An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow for full compliance with the Shoreline Master Program.~~

(b) ~~Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed to be the appropriate means to address the emergency situation, upon abatement of the emergency situation, the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter [90.58](#) RCW, Chapter [173-27](#) WAC or this Shoreline Program shall be obtained.~~

(c) ~~All emergency construction shall be consistent with the policies of Chapter [90.58](#) RCW and the Shoreline Master Program.~~

(d) ~~In general, flooding or other seasonal events that can be anticipated and may occur, but that are not imminent, are not an emergency.~~

(5) ~~Agricultural Construction or Practices. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling, other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.~~

(6) ~~Construction of Single Family Residence and Accessory Buildings. Construction on shorelands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level as defined in WAC [173-27-030](#), and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this section.~~

(a) "Single family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single family residence and is located landward of the OHWM and the perimeter of a wetland.

(b) Construction authorized under this exemption shall be located landward of the OHWM.

(7) Construction of Noncommercial Docks. Construction of a dock, including a community dock designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single- and multifamily residences.

This exception applies if:

(a) The fair market value of the dock does not exceed \$10,000; however, if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction shall require a substantial development permit;

(b) A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities, or other appurtenances; and

(c) The dock meets all requirements of this code. A private dock generally is prohibited.

(8) Construction Authorized by the Coast Guard. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

(9) Operation, Maintenance, or Construction Related to Irrigation. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands.

(10) Marking of Property Lines on State Owned Lands. The marking of property lines or corners on state-owned lands when such marking does not interfere with the normal public use of the surface of the water.

(11) Operation and Maintenance of Agricultural Drainage or Dikes. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.

(12) Activities Necessary for Permit Application. Site exploration and investigation activities that are prerequisites to preparation of an application for development authorization under the Shoreline Master Program, if:

(a) The activity does not interfere with the normal public use of the surface waters;

(b) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(c) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(d) A private entity seeking development authorization under the Shoreline Master Program first posts a performance bond or provides other evidence of financial responsibility to the director to ensure that the site is restored to pre-existing conditions; and

(e) The activity is not subject to the permit requirements of RCW [90.58.550](#).

(13) Removal or Control of Noxious Weeds. The process of removing or controlling an aquatic noxious weed, as defined in RCW [17.26.020](#), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter [43.21C](#) RCW.

(14) Watershed Restoration Projects. Watershed restoration projects as defined below:

(a) "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

(i) A project that involves less than 10 miles of stream reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed, or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings.

(ii) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water.

(iii) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state; provided, that any structure other than a bridge or culvert or instream habitat enhancement structure associated with the project is less than 200 square feet in floor area and is located above the OHWM of the stream.

(b) "Watershed restoration plan" means a plan developed or sponsored by a state department, a federally recognized Indian tribe, a city, a county, or a conservation district, for which agency and public review has been conducted pursuant to Chapter [43.21C](#) RCW, the State Environmental Policy Act. The watershed restoration plan generally contains a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed.

(15) Projects to Improve Fish and Wildlife Passage or Habitat. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

~~(a) The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose.~~

~~(b) The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter [75.20](#) RCW.~~

~~(c) The director has determined that the project is consistent with this Master Program.~~

~~(16) Hazardous Substance Remediation. Hazardous substance remedial actions pursuant to WAC [173.27-040\(3\)](#).~~

~~(17) Projects on Lands Not Subject to Shoreline Jurisdiction Prior to Restoration. Actions on land that otherwise would not be under the jurisdiction of the Shoreline Management Act except for a change in the location of OHWM or other criteria due to a shoreline restoration project creating a landward shift in the ordinary high water mark that brings the land under the jurisdiction of the Act approved in accordance with SMC [17.150.073](#).~~

~~(18) All of the above exemptions are subject to the following regulations:~~

~~(a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.~~

~~(b) The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development action.~~

~~(c) If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.~~

17.150.067A Exceptions from substantial development permit. [NEW SECTION]

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(1) Remedial Actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under Chapter 70.105D RCW.

(2) Boatyard Improvements to Meet NPDES Permit Requirements. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a National Pollutant Discharge Elimination System stormwater general permit.

(3) WSDOT Facility Maintenance and Safety Improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW

90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

- (4) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
- (5) Projects authorized through the Energy Facility Site Evaluation Council process pursuant to Chapter 80.50 RCW.
- (6) Areas and uses under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.

17.150.087 Amendments authorized.

The provisions of the Shoreline Master Program use regulations or the shoreline environment map may be amended as provided for in RCW [90.58.120](#) and [90.58.200](#) and Chapter [173-26](#) WAC. **Periodic reviews shall be processed consistent with the requirements of RCW 90.58.080 and WAC 173-26-090.**

17.150.091 Transmittal to the Department of Ecology.

Subsequent to final action by the council adopting or amending the Shoreline Master Program or official control, said Master Program, official control, or amendment thereto shall be submitted to the Department of Ecology for approval. No such Master Program, official control, or amendment thereto shall become effective until approval by the Department of Ecology is obtained pursuant to RCW [90.58.090](#), **WAC 173-26-110 and WAC 173-26-120.**

Attachment E
Findings of Fact and Conclusions

DRAFT