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**FROM:** Misty Blair, Shoreline Management Policy Lead, WA Department of Ecology

**Date:** August 2, 2019 –**REVISED October 21, 2019**

**Subject:** **SMP Periodic Review - Determination of initial concurrence**

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## Brief Description of Proposed Amendment

The City of Mukilteo (City) has submitted Shoreline Master Program (SMP) amendments to Ecology for initial determination of concurrence to comply with periodic review requirements of RCW 90.58.080(4). The City has elected to utilize the optional joint review process for SMP amendments available per WAC 173-26-104; therefore Ecology is required under WAC 173-26-104(3)(b) to make an initial determination of consistency with applicable laws and rules. The City proposes amendments to bring the SMP into compliance with requirements of the Act or State Rules that have been added or changed since the City's comprehensive SMP update, including updates to the City's SMP critical areas provisions to incorporate the most current, accurate, and complete scientific and technical information. The City is proposing updates to Shoreline Master Program Policy document for internal consistency, and miscellaneous amendments intended to improve the clarity, consistency, and administration of the SMP.

## FINDINGS OF FACT

### Need for amendment

The City's comprehensive update to their SMP was locally adopted on December 12, 2011 and became effective on January 5, 2012 after Ecology final approval. The proposed amendments are needed to comply with the statutory deadline for a periodic review of the City's Shoreline Master Program pursuant to RCW 90.58.080(4). The City has identified that this periodic review will result in amendments to the SMP to address updates to the Act or implementing State Rules, changed local circumstances, new information and improved data.

### SMP provisions to be changed by the amendment as proposed

The City filled out the Ecology SMP Periodic Review checklist to address requirements of the Act or state rules that have been added or changed since the last SMP amendment. The City identifies their *By the Way Plan*, adopted in 2017, and the *Downtown Waterfront Plan*, adopted in 2016 as containing new information or policy direction warranting amendments to the SMP for internal consistency. Revisions that occurred as a result of Ecology's August 2, 2019 Initial Determination are noted in   highlight.

## City of Mukilteo

### SMP Periodic Review – October 21, 2019 Revised Determination of Initial Concurrence

SMP Periodic Review checklist items along with the City's locally initiated proposed changes modify the following SMP sections:

#### *City of Mukilteo Shoreline Master Program*

Edits made throughout this document to update references, spelling out acronym within text, improve grammar, make reference to the 2019 Periodic Review effort, and to improve readability.

#### *SMP Chapter 17B.08 Definitions*

**Section 17B.08.020 Definitions** – Minor edits made to:

- Update references;
- Add definition for “aquaculture”;
- Clarify that the definition of “development” does not include dismantling or removing structures;
- Replaced the definition of “floodway” as recommended in Periodic Review Checklist; and
- Add definition for “shoreline restoration project”.

#### *SMP Chapter 17B.12 Shoreline Designations*

Only minor edit made including spelling out acronym within text.

Replaced December 2010 version of Figure 1 – Shoreline Environment Designations map with a new FINAL – JUNE 2019 version. No SEDs were changed, map coloring and map key were updated for clarity and ease of implementation. Also updated Figure 2 Zoning map from Draft – February 2010 to FINAL December 12, 2011.

#### *SMP Chapter 17B.13 Procedures*

Minor edits made throughout updating references or fixing grammar.

Added Sections 17B.13.015 Exceptions, 17B.13.045 Request for relief from shoreline regulations if needed, and 17B.13.125 Special procedures for Washington State Department of Transportation (WSDOT) projects, as recommended from SMP Periodic Review Checklist.

#### *SMP Chapter 17B.16 Permitted Uses*

**Section 17B.16.040 Shoreline Permitted Use Matrix, subsection A. Table 1 Permitted Use Matrix -**

Update aquaculture prohibition to allow aquaculture consistent with tribal treaty rights with a CUP in the Urban Waterfront, Urban Waterfront Park, Aquatic Urban and Aquatic Urban Conservancy SEDs.

**Section 17B.16.070 Development regulations for parking** – Modified existing 75 foot parking setback standard. Additional revisions provided to Ecology on 10/18/2019 address issues identified in the August 2, 2019 Initial Determination by suggesting alternative language for Subsection A and C.

Subsection A is re-written to provide new off-street parking standards for properties within the Urban Waterfront SED that are zoned Waterfront Mixed Use (WMU) to:

- Clarify that parking is limited to what is necessary to support a permitted use unless created as shared or point parking.
- Allow parking for water-oriented uses under, landward or to the side of structures containing water-oriented uses.
- Clarify that all parking associated with non-water-oriented uses shall continue to be located a minimum of seventy-five feet from the OHWM.

The City is no longer proposing edits to Subsection B.

Subsection C is re-written to simply state that, *parking associated with a permitted use is preferred over stand-alone parking lots.*

**New Section 17B.16.270 Development regulations for aquaculture** – Added requirement for CUP for new aquaculture and includes WAC geoduck standards as applicable to all new aquaculture.

**Other miscellaneous edits** - Added clarification regarding the setback from required pedestrian amenities per the City's waterfront promenade standards, updates to references, grammar related re-wording.

*SMP Chapter 17B.20 bulk Regulations*

**Table 1 Bulk Matrix** - is modified to change the shoreline setback from the OHWM to the top of Riprap. The WMU setback is further modified per footnote #12 to read 20 feet from top of Riprap rather than 35-50 feet from OHWM.

**Current footnote #12 reads:** *Buildings shall be setback thirty to fifty feet along the waterfront to allow for a twenty-five foot pedestrian promenade, landscaping, and additional space to be used for outside uses associated with public, commercial and retail uses.*

**Proposed footnote #12 reads:** *Buildings shall be set-back twenty (20) feet from the waterfront riprap to allow for a fifteen (15) foot pedestrian promenade with a five (5) foot building setback from the pedestrian promenade.*

*SMP Chapter 17B.25 Design Standards*

**Section 17B.25.040 Transit-supportive design** – is modified to reference the City's 2016 Downtown Waterfront Master Plan, acknowledge the new Ferry Terminal location, and emphasize multi-modal or intermodal stations to minimize walking distances between transportation modes and commercial waterfront development. This is proposed to address changing local circumstances and for consistency with the City's Comprehensive Plan.

**Section 17B.25.060 Overall building form** – adds clarification regarding buildings orientation to the property line adjacent to the street. The City also proposes to remove the current prohibition on parking within the setback and encourage the use of the setback for parking. Per 8/2/2019 Ecology Required Change Req-2 the City opted to remove reference to parking from this section altogether.

**Section 17B.25.065 Building Designs for the waterfront, port, mixed-use, and transportation related buildings** – the City proposes to delete existing subsection A and C related to building materials, historic design, and Front Street facades. Remaining provisions in this section are combined and re-organized with existing provisions from Section 17B.25.070.

**Section 17B.25.090 Off-street parking-Parking facilities-Lots-Structures** – modifications made to clarify where off-street parking is allowed. Standards for transit parking in subsection L. are deleted and replaced with a reference to the standards outlined in 17B.56.040. Per 8/2/2019 Ecology Required Change Req-3 - this section was modified to achieve consistency with the Policy of the SMA related to preferred uses, WAC 173-26-241, and for internal consistency with MMC 17B16.070 and 17B.56.

**Section 17B.25.110 Pedestrian walkway** – clarification added to subsection A. providing that the required promenade also has a five (5) foot building setback requirement. The City also proposes to modify the required setback reducing the setback from thirty (30 ) feet to twenty (20) feet, as follows:  
*A. All new development will have a minimum setback of ~~thirty~~ twenty (20) feet from rip rap, ~~or from a newly established beach, and shall incorporate twenty-five feet of pedestrian amenities~~ A fifteen (15) foot promenade with a five (5) foot building setback shall be built within the twenty (20) foot setback that conforms to the waterfront promenade standards or to provide access to the beach.*

*SMP Chapter 17B.52 Critical Areas Regulations (within the two-hundred-foot shoreline jurisdiction)*

**Section 17B.52B.010 Purpose of critical areas regulations** – minor edit to consistently use the term “no net loss of shoreline ecological function.”

*SMP Chapter 17B.52B Wetland Regulations*

## City of Mukilteo

### SMP Periodic Review – October 21, 2019 Revised Determination of Initial Concurrence

**Section 17B.52B.050 Wetland permit process and application requirements** – New subsection E. establishes that City verified wetland delineations shall be valid for five years with required buffers established at time of complete permit application.

**Section 17B.52B.060 Wetland rating and classification** – replaces reference to Ecology’s Wetland Rating System for Western Washington, Publication No. 04-06-025 with a reference to the updated 2014 system.

**Section 17B.52B.070 Buffer areas** – updates throughout this section to align the City’s wetland standards with the most current, accurate, and complete scientific and technical information available” [WAC 173-26-201 (2)(a)]. Specifically the buffer measurement, buffer width standards and tables, increased buffer allowance, buffer averaging, low impact uses, and stormwater facilities. Buffer reduction allowances are removed from the SMP and minor additional re-organization is proposed. Per 8/2/2019 Ecology Required Change Req-4 - this section was modified to achieve consistency with the WAC 173-26-201(2)(a) and for internal consistency.

**Section 17B.52B.090 Wetland alteration and mitigation** Per 8/2/2019 Ecology Required Change Req-5 & Recommended Change Rec-1 - this section was modified to achieve consistency with the Policy of the SMA related to preferred uses and WAC 173-26-201(2)(a).

**Section 17B.52B.100 Wetland standards and criteria** – modifications made to subsection B.2.e to better align with current Ecology guidance on the use of Preservation as a wetland impact compensatory mitigation method. Per 8/2/2019 Ecology Recommended Change Rec-2 - this section was modified to achieve consistency with WAC 173-26-201(2)(a).

#### *SMP Chapter 17B.52D Flood Hazard Areas*

**Section 17B.52D.040 Designation of frequently flooded areas** – updates to this section include clarification that the most recently adopted FEMA maps or panels are adopted by reference into the SMP for the purpose of identifying frequently flooded areas. Additional information is added to describe the FEMA FIRM map update process that began in 2010 and include which SED’s in the City are identified as high risk flood hazard areas.

#### *SMP Chapter 17B.56 Off-Street Parking*

Minor edits made throughout fixing references, updating terms, or adjusting grammar.

**Section 17B.56.010 Requirements** – removed specific reference to “new or used car sales area.”

**Section 17B.56.040 Parking facilities-lots-structures for transit** – removed provision that limits park and ride installation until three to five years after the full transit facility is developed and operational. Removes the park and ride 120 parking space limit and adds reference to 17B.56.030 for design standards.

**Section 17B.56.050 Parking spaces next to the shoreline** – modifies the current 75 foot setback from the OHWM for parking to add an allowance for parking east of Park Avenue to be located 5 feet from the promenade. This new parking allowance applies to the area identified below with the red circle. Per 8/2/2019 Ecology Required Change Req-6 - this section was modified to achieve consistency with the Policy of the SMA related to preferred uses, WAC 173-26-241, and for internal consistency with MMC 17B16.070 and 17B.25.090.



**Section 17B.56.110 Master parking study required for tank farm site** – This subsection is retitled, *joint parking and common parking areas*. The tank farm reference is removed and the provision is reduced to a single sentence which encourages joint use parking to promote the reduction of impervious surface.

*SMP Chapter 17B.68 Nonconforming Uses, Buildings and Lots*

**Section 17B.68.015 Applicability** – New section sets the applicability of this section and provides that if critical areas are involved the more restrictive standard between 17B.68 and 17B.52 shall apply.

**Section 17B.68.060 Nonconforming buildings** – the term “building” is replaced with “structure” throughout. Additional modifications made to increase consistency with the State default nonconforming language from WAC 173-27-080. Reclassifies nonconforming structures as conforming. Additional language from WAC 173-27-080 is added to address the enlargement and expansion, relocation, replacement, maintenance, and repair of nonconforming structures. Per 8/2/2019 Ecology Recommended Change Rec-3 - this section was modified to provide additional clarity for ease of implementation.

*SMP Chapter 17B.72 Administration*

Minor edits made throughout removing pronouns *him and his or her*.

**Section 17B.72.050 Zoning and shoreline regulations review** – City proposes to add a more specific WAC reference as it relates to the reference to periodic reviews and adjustments. Per 8/2/2019 Ecology Recommended Change Rec-4 - this section was modified to fix an error in the WAC reference.

**Section 17B.72.060 Amendments to Mukilteo shoreline regulations** – WAC references are updated, and specific reference to Ecology’s written notice of final action and effective date of revisions to the SMP are added. Per 8/2/2019 Ecology Recommended Change Rec-5 - this section was modified to fix errors in the RCW and WAC references.

**Section 17B.72.070 Moratoria authority** – added new moratoria section consistent with RCW 90.58.

*SMP Chapter 17B.84 State Environmental Policy Act (SEPA)*

**Section 17B.84.050 Flexible thresholds for categorical exemptions** and **Section 17B.84.051 Categorical exemptions without flexible thresholds** – updates proposed for internal consistency with SEPA regulations outside the shoreline jurisdiction as allowed per WAC 197-11-800.



## **Amendment History, Review Process**

The City prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. The City executed this plan by hosting an open house, creating a web page, and initiating outreach to residence, neighboring jurisdictions and tribes.

The City used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The City consulted with Ecology and solicited comments throughout the review process.

The City and Ecology held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on March 18 and continued through April 18, 2019. A joint local/state public hearing was held at the Mukilteo City Hall Council Chambers at 7:00 pm on April 18, 2019.

The City provided notice to local interested parties, including a statement that the hearing was intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). Ecology distributed notice of the joint comment period and public hearing to state interested parties on or before March 18, 2019.

Six individuals provided verbal testimony and written comments. One Commenter expressed concern about the noise and light impacts from ferry terminal and surrounding downtown waterfront development. Multiple comments expressed opposition to the allowance for commuter parking within the shoreline and questioned how this amendment would implement the purpose and intent of the City's SMP, Downtown Waterfront Master Plan, Japanese Gulch Master Plan, or By the Way Plan. The Tulalip Tribe provided oral testimony expressing an interest in the other public testimony related to potential parking areas and affirming their intention to continue to discuss options for flexibility for future uses on the former Tank Farm site. The City summarized and provided responses to these comments within the City's *2019 Shoreline Master Program Update Public Comments Received and City Responses to Comments* submittal document. City staff updated the Public Tidelands map, as a result of comments received, to accurately reflect private tideland ownership in form of Losvar Condominiums.

The City also issued a SEPA Determination of Non-Significance (DNS) for the City of Mukilteo Shoreline Master Program Periodic Review Amendment on February 4, 2019. A copy of this DNS and the associated SEPA Checklist was provided to Ecology for this SMP Amendment adoption record.

The City provided their initial submittal of the proposed SMP amendments to Ecology pursuant to WAC 173-26-104 via certified mail on June 7, 2019 and the submittal was determined to be complete. This began Ecology's review and initial determination.

## City of Mukilteo

### SMP Periodic Review – October 21, 2019 Revised Determination of Initial Concurrence

Ecology provided the City with a written statement of Initial Determination of Consistency with the applicable RCW and WAC requirements for a SMP on August 2, 2019. This ID identified six (6) items that would Require Changes and five (5) items that were recommended to be changed.

In response, City staff incorporated the required and recommended changes into draft Ordinance 1427 and brought it to City Council at a Public Hearing on September 3, 2019. Additional public comments were received and the City Council continued the Public Hearing to October 7, 2019. As a result of public comments and City Council discussion City staff proposed alternative language to address the issues identified by Ecology within the August 2, 2019 Initial Determination as Required Changes 1, 3, & 6. This alternative language was provided to Ecology on October 18, 2019. The September 3, 2019 draft Ordinance 1427 along with the October 18, 2019 proposed alternative language are the subject of this *October 21, 2019 Revised Initial Determination*.

#### *Consistency with Chapter 90.58 RCW*

The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

#### *Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)*

The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Periodic Review Checklist, which was completed by the City.

#### *Consistency with SEPA Requirements*

The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments. Ecology did not comment on the DNS.

## INITIAL DETERMINATION

Ecology provided the City with an Initial Determination of Consistency on August 2, 2019, which identified six (6) issued that required changes for consistency with the SMA and Guidelines and five (5) additional items identified as recommended. In response the City staff drafted Ordinance 1427 for the September 3, 2019 City Council Meeting incorporating all the required and recommended changes. After additional Council discussion, City staff proposed alternative language for addressing Required Changes Req-1, Req-3, and Req-6 to Ecology on October 18, 2019. After review by Ecology of the complete record submitted to date, Ecology has determined that the City proposed amendments, are consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

## Next Steps

- The City should take formal action to adopt the proposed SMP amendment by Ordinance and provide a complete submittal to Ecology for final action.
- We anticipate being able to approve your SMP Periodic Review amendment, as submitted, promptly after formal submittal is provided consistent with WAC 173-26-110.

10.21.2019 City of Mukilteo SMP Periodic Review Initial Determination of Consistency - Attachment 1

**Ecology Review of New Language proposed by the City on October 18, 2019 - Intended to Resolve Issues Identified as Required and Recommended in August 2, 2019 SMP Periodic Review Initial Determination**

The changes in **red are required** to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in **blue are recommended** and consistent with SMA (RCW 90.58) policy and the SMP Guidelines (WAC 173-26, Part III).

SMP Submittal Provision	NEW BILL FORMAT CHANGES PROPOSED BY THE CITY TO ADDRESS THIS ISSUE(underline = additions; strikethrough = deletions)	RATIONALE
<b>SMP Regulations 17B.16.070 Development regulations for parking</b>	<p>A. On-site parking for single-purpose or joint use/shared parking lots and garages in commercial, mixed-use, and multi-modal development within the two-hundred-foot shoreline jurisdiction in the urban waterfront environment designation and WMU zones shall not be located within seventy-five feet of the OHWM. <del>East of Park Avenue, on-site parking for single-purpose or joint use/shared parking lots and garages shall be located a minimum of five feet from the landward edge of the promenade.</del> Off-street parking is limited to the parking necessary to support a permitted use unless created as shared or joint parking.</p> <p>B. Off-site parking for permitted uses within the shoreline jurisdiction shall be located outside the shoreline jurisdiction in joint-use or shared parking garages or lots where garages are not feasible. If it's necessary for the project success to have accessory parking within seventy-five feet of the shoreline, all accessory parking will be located on a public street or as part of a shared parking garage. <del>This provision does not apply east of Park Avenue.</del></p> <p>C. Parking garages or parking lots shall be located landward of the permitted shoreline use, such that a building or park use separates the shoreline from the parking lot or stalls. Parking under or landward of buildings is preferred over stand-alone parking lots. Parking to the side must be camouflaged by solid walls with landscaping. <del>This provision does not apply east of Park Avenue.</del></p> <p><b>NEW PROPOSED LANGUAGE 10.18.2019</b></p> <p>A. <u>Off-street parking for properties within the Urban Waterfront shoreline designation that are zoned Waterfront Mixed Use (WMU).</u></p> <p>1. <u>Off-street parking is limited to the parking necessary to support a permitted use unless created as shared or joint parking.</u></p> <p>2. <u>Off-street parking for water-oriented uses may be located within seventy-five feet of the OHWM, and may be located under, landward or to the side of the structure containing the water-oriented use. Parking shall not be located closer to the OHWM than the face of the structure closest to the OHWM.</u></p> <p>3. <u>Off-street parking for non-water-oriented uses shall be located a minimum of seventy-five feet from the OHWM.</u></p> <p>B. Off-site parking for permitted uses within the shoreline jurisdiction shall be located outside the shoreline jurisdiction in joint-use or shared parking garages or lots where garages are not feasible. If it's necessary for the project success to have accessory parking within seventy-five feet of the shoreline, all accessory parking will be located on a public street or as part of a shared parking garage.</p> <p>C. <del>Parking garages or parking lots shall be located landward of the permitted shoreline use, such that a building or park use separates the shoreline from the parking lot or stalls. Parking under or landward of buildings is preferred over stand-alone parking lots. Parking to the side must be camouflaged by solid walls with landscaping.</del> <u>Parking associated with a permitted use is preferred over stand-alone parking lots.</u></p>	<p><b>As proposed, the 10/18/2019 language resolves the issues identified by Ecology in Req-1.</b></p> <p>Reviewed for consistency with the Policy of the SMA, WAC 173-26-241 and internal consistency with MMC 17B.25.090, and 17B.56.</p> <p>Consistent with the WAC 173-26-241, all parking is encouraged to be located outside the shoreline jurisdiction. The proposed alternative language provided by City staff create better internal consistency and clarity for ease of implementation, by maintaining the identified 75 foot shoreline setback for parking associated with a non-water oriented use, while allowing parking associated with a water-oriented use to be located under, landward or beside the structure supporting the water-oriented use.</p> <p>This allowance appears consistent with the Policy of RCW 90.58.020 or WAC 173-26-241.</p>



# 10.21.2019 City of Mukilteo SMP Periodic Review Initial Determination of Consistency - Attachment 1

<b>SMP Regulations</b> <b>17B.25.060</b> <b>Overall building form</b>	<p>17B.25.060 Overall building form.</p> <p>Buildings should provide and enhance the pedestrian scale and orientation of the district. The following concepts help to achieve that goal:</p> <p>A. When part of a project, buildings should be built to the street property line or right-of-way easement to enclose a pedestrian-oriented landscape. Pedestrian-oriented amenities are important such as outdoor dining associated with an eating establishment, recessed plaza or specific district design standards or landscape needs adjacent to the promenade. <del>The setback should be used for parking.</del> See Section 17B.25.120, Guideline 1: Overall Form, Guideline 6: Street Walls and Guideline 7: Ground Floor Transparency.16.07</p> <p><b>This Required change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p>	<p><b>This proposed language was removed from the amendment, resolving the issues identified by Ecology in Req-2.</b></p>
<b>SMP Regulations</b> <b>17B.25.090</b> <b>Off-Street Parking</b>	<p>A. Off-street parking in commercial areas <del>outside of the two hundred foot shoreline zone</del> shall either be behind or to the side of development with ground-floor retail along the street frontage.</p> <p><b>NEW PROPOSED LANGUAGE 10.18.2019</b></p> <p>A. Off-street parking.</p> <ol style="list-style-type: none"> <li>1. <u>Parking for water-oriented uses shall be located under, landward or to the side of the structure containing the water-oriented use. Parking shall not be located closer to the OHWM than the face of the structure closest to the OHWM</u></li> <li>2. <u>Off-street parking for non-water-oriented uses shall be located a minimum of seventy-five feet from the OHWM.</u></li> <li>3. <u>Commercial uses shall provide ground-floor retail along the public street frontage.</u></li> </ol>	<p><b>As proposed, the 10/18/2019 language resolves the issues identified by Ecology in Req-3.</b></p> <p>Reviewed for consistency with the Policy of the SMA, WAC 173-26-241 and internal consistency with MMC 17B.16.070, and 17B.56. Add clarity and provides internal consistency.</p>
<b>SMP Regulations</b> <b>17B.52B.070</b> <b>Buffer areas</b>	<p>D. Buffer Requirements. The standard buffer widths in Table 1—Wetland Buffer Widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.</p> <ol style="list-style-type: none"> <li>1. The use of the buffer widths in Table 1 requires the implementation of the mitigation measures in Table 1A, where applicable, to minimize the impacts of the adjacent land uses.</li> <li>2. If an applicant chooses not to apply the mitigation measures in Table 1A, then a thirty-three percent increase in the width of all buffers is required. For example, a seventy-five-foot buffer with the mitigation measures would be a one-hundred-foot buffer without them.</li> <li>3. The buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened <u>by thirty-three percent</u> to ensure that adequate functions of the buffer are provided.</li> </ol> <p style="text-align: center;">****</p> <p>K. Existing Designated Buffers. If an existing property has a previously delineated and/or approved wetland and associated buffer approved by the city, the approved wetland buffer will remain in effect for a period of five years <u>or until the approved shoreline permit expires</u>. Redevelopment, and/or additions outside of the existing footprint shall be subject to the <del>previously approved buffer</del> <u>current buffer standards of Section 17B.52B.070</u>; however, <u>such a proposal may be eligible for additional allowances contained within Section 17B.68 Nonconforming Uses, Buildings, and Lots.</u> <del>a</del> A buffer enhancement plan may be required in accordance with subsection <del>F</del> <u>E</u> of this section if the wetland or buffer has become degraded or is currently not functioning or if the wetland and/or buffer may be negatively affected by proposed new development.</p> <p><b>This Required change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p>	<p><b>This provision was modified consistent with the recommended changes provided by Ecology, resolving the issues identified by Ecology in Req-4.</b></p>

# 10.21.2019 City of Mukilteo SMP Periodic Review Initial Determination of Consistency - Attachment 1

<b>SMP Regulations 17B.52B.090 Wetland alteration and mitigation</b>	<p>B. Altering Wetlands. Unless otherwise approved by the city and Ecology through a shoreline variance, alteration of wetlands and/or their buffers may <u>only</u> be permitted subject to the following criteria:</p> <ol style="list-style-type: none"> <li>1. Category I Wetlands. Alterations of Category I wetlands shall be avoided.</li> <li>2. Category <del>II and III</del> <u>II, III, and IV</u> Wetlands. With respect to activities proposed in Category <del>II and III</del> <u>II, III, and IV</u> wetlands, the following standards shall apply: <ol style="list-style-type: none"> <li>a. Water-dependent activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffer, and other critical areas.</li> <li><u>b. Low-impact public access and water-oriented recreational development, such as raised boardwalks, may be allowed if they provide opportunities for substantial numbers of the general public to enjoy the shoreline and incorporates interpretive signs or other mechanism to inform the public about shoreline and wetland functions.</u></li> <li><del>b-c.</del> Where non-water-dependent <u>or non-public-access</u> activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, <del>unless the applicant demonstrates that:</del> <ol style="list-style-type: none"> <li><del>i. The basic project purpose cannot reasonably be accomplished and successfully avoided, or result in less adverse impact on a wetland on another site or sites in the general region; and</del></li> <li><del>ii. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.</del></li> </ol> </li> <li>3. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objective. Full mitigation for the acreage and lost functions will be provided under the requirements of this chapter.</li> </ol> <p><b>This Required change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p> </li></ol>	<p><b>This provision was modified consistent with the recommended changes provided by Ecology, resolving the issues identified by Ecology in Req-5 and incorporating Rec-1.</b></p>
<b>SMP Regulations 17B.52B.100 Wetland standards and criteria</b>	<p>B. Wetland Mitigation Ratios – Subsection 2.e</p> <p>e. Preservation. Preservation of high quality wetland and buffer may be allowed as compensation for wetland impacts on a case-by-case basis. <u>Preservation can only be used in combination with other forms of mitigation.</u> Mitigation ratios for preservation in combination with other forms of mitigation will generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being lost or degraded and the quality of the wetlands being preserved. Guidance in the Department of Ecology's publication "Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance" will be consulted during consideration of preservation as compensatory mitigation.</p> <p><b>This Recommended change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p>	<p><b>This provision was modified to incorporated recommended changes (Rec-2) provided by Ecology.</b></p>
<b>SMP Regulations 17B.56.050 Parking spaces next to the shoreline</b>	<p>All off-street parking spaces <del>east of Park Avenue within the shoreline jurisdiction</del> shall be located a <del>minimum of five feet from the landward edge of the promenade. All other off-street parking spaces along the remainder of the shoreline zone shall be a</del> minimum of seventy-five feet landward of the ordinary high water mark.</p> <p><b>NEW PROPOSED LANGUAGE 10.18.2019</b></p> <p>A. Off-street parking shall be located a minimum of seventy-five feet landward of the <del>ordinary high water mark</del> <u>OHWL if not associated with a water-oriented use.</u></p> <p><u>B. Off-street parking associated with a water-oriented use shall be located under, landward or to the side of the structure containing the water-oriented use.</u></p>	<p><b>As proposed, the 10/18/2019 language resolves the issues identified by Ecology in Req-6.</b></p> <p>Reviewed for consistency with the Policy of the SMA, WAC 173-26-241 and internal consistency with MMC 17B.16.070, and 17B.56. Add clarity and provides internal consistency.</p>

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<b>SMP Regulations 17B.68.060</b>	<p>Nonconforming structures may be altered, repaired, enlarged, added to or moved only as <del>regulated</del> <u>allowed</u> by this section.</p> <p>A. Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density <u>may continue as a legal nonconforming structure</u> and may be maintained and repaired. <u>Legal nonconforming residential structures and appurtenant structure shall be considered conforming structures, but are still eligible for the allowances provided in this section.</u></p> <p><b>This Recommended change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p>	<p><b>This provision was modified to incorporate recommended changes (Rec-3) provided by Ecology.</b></p>
<b>SMP Regulations 17B.72.050 Zoning and shoreline regulations review</b>	<p>This title shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations. This review process shall be consistent with WAC 173-26-<del>404</del><u>090</u> and shall include public hearings to obtain the views and comments of the public.</p> <p><b>This Recommended change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p>	<p><b>This provision was modified to incorporate recommended changes (Rec-4) provided by Ecology.</b></p>
<b>SMP Regulations 17B.72.060 Amendments to Mukilteo shoreline regulations</b>	<p>A. Any of the provisions of this title may be amended as provided for in RCW <del>90.58.060 and</del> 90.58.100 and Chapter 173-26-<u>201</u> WAC. Amendments or revisions to this title become effective 14 days from the Washington State Department of Ecology's written notice of final action.</p> <p>B. Proposals for shoreline environment redesignation (i.e., amendment to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC <u>173-26-110, WAC 173-26-201(1)(c), and WAC 173-22-040-173-26-211.</u></p> <p>C. Amendments to the shoreline master program may follow the optional SMP amendment process that allows for a shared local/state public comment period for efficiency as outline in WAC 173.26.104.</p> <p>D. Amendment submittals sent to the Washington State Department of Ecology for final review should by in digital format and include a summary of amendments made in response to public comments and the final periodic review checklist <u>as and</u> clarified in WAC 173-26-110 and WAC 173-26-120.</p> <p><b>This Recommended change was incorporated into September 3, 2019 version of Draft Ordinance 1427</b></p>	<p><b>This provision was modified to incorporate recommended changes (Rec-5) provided by Ecology.</b></p>
<b>SMP Regulations 17B.25.120 Design guidelines</b>	<p><b>NEW PROPOSED LANGUAGE 10.18.2019</b></p> <p>All developments, inside and outside of the shoreline jurisdiction, shall comply with the following design guidelines:</p> <p>A. ...</p> <p>B. Guideline 2: Site Design. Off-street parking areas <del>are to be located at the rear or side of buildings and</del> should be well lit, without creating light spillage onto other properties.</p> <p>C. ...</p>	<p><b>As proposed, the 10/18/2019 language remains consistent with the SMA and implementing Guidelines.</b></p> <p>These parking standards are addressed in MMC 17B.16.070, 17B.25.090, 17B.56; there is no need to address these parking standard again within the Design guidelines.</p>