ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR CITY OF AUBURN SHORELINE MASTER PROGRAM
AMENDMENT AND REVIEW

SMP Submittal accepted November 27, 2019, Ordinance No. 6733
Prepared by Department of Ecology on March 24, 2020

Brief Description of Proposed Amendments
Ecology received Shoreline Master Program (SMP) amendments, for state review from the City of Auburn (City) in November 2019. The amendments are derived from the City’s locally approved periodic review of their SMP to comply with state requirements.

FINDINGS OF FACT

Need for amendment
The City’s comprehensive update of their SMP went into effect in 2008. The proposed amendments are associated with the City’s periodic review of their SMP, which was completed to comply with a statutory deadline in the Shoreline Management Act (SMA) at RCW 90.58.080(4).

SMP provisions to be changed by the amendment as proposed
The City prepared a checklist and an analysis that documents the locally approved amendments. The amendments are intended to bring the SMP into compliance with requirements of the SMA or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with locally amended comprehensive plans or updated regulations, or incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data.

The City provided the following summary of changes included in proposed SMP amendments:

1. Minor non-substantive corrections, clarifications and updating of internal code references throughout the amended SMP.
2. Minor updates to numerous definitions and incorporation of new definitions for: “Nonconforming Structure” and “Qualified Consultant” in Chapter 1 of the SMP.
3. Incorporation of formal code reference in section 4.4.4 to applicable sections of the City’s Critical Areas Ordinance (CAO) in Chapter 16.10 ACC (Ordinance No. 6733, 2019), which replaces the previous reference to Appendix A that listed CAO provisions administered under the SMP.
4. Incorporation of additional provisions into section 4.4.10 of the updated SMP applicable to nonconforming structures, uses, and lots.
5. Incorporation of a “modest home” provision; authorizing implementation of flexible development standards on nonconforming lots, when the footprint of the development (i.e., home, driveway, etc.) are minimized and shoreline buffer enhanced to increase ecological functions.
6. Removal of duplicative administrative or permitting procedures from City Code (Chapter 16.08 ACC), while retaining provisions within Chapter 6 of the SMP.
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, tribes, and applicable agencies having interests and responsibilities relating to shoreline management within and adjacent to the City.

The City used Ecology’s Periodic Review Checklist, listing legislative or rule amendments to the SMA (RCW 90.58) or SMP Guidelines (WAC 173-26) that have occurred since the SMP 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 reviewed changes to the comprehensive plan and associated development regulations to ensure that SMP policies and regulations remain consistent 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 held a comment period on the proposed amendment from August 13, 2019 through September 12, 2019. The City’s Planning Commission also held a joint public hearing with Ecology on October 8, 2019. No comments were received or testimony provided at the public hearing regarding the SMP amendment or periodic review.

The City provided notice to local parties and published a formal notice in the Seattle Times between August 13th and 19th, 2019 that included a statement that the SMP amendment intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii).

With passage of Ordinance #6733, on November 4, 2019, the City authorized staff to forward the locally approved amendments to Ecology for formal approval. The City submitted the amendments and Ecology verified the submittal as complete on November 27, 2019.

Following substantive review of the amendment, Ecology discovered that state interested parties were not provided notice by Ecology of the City’s August 2019 comment period. Therefore, Ecology held an additional comment period from December 16 – 31, 2019, notifying state interested parties of the opportunity to provide comments and ensuring compliance with procedures outlined in WAC 173-26-100.

Ecology received two comments from: (1) The Muckleshoot Indian Tribe – Fisheries Division, and (2) The King County Flood Control District. A summary of the comments along with the City’s response and Ecology conclusion, are provided in Attachment B (Public Comment Summary).

Ecology provided a summary of comments received (Attachment B) to the City on January 9, 2020. Following consideration of the comment, the City provided a formal response to Ecology on February 25, 2020 (Attachment B). The City’s response acknowledged comments received by both interested parties, reiterated the scope of the SMP review/amendment, and highlighted opportunities to further consider some of the issues raised through project specific review. The City did not make any changes to the amendment in response.
Consistency with Chapter 90.58 RCW
The proposed amendment has 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 includes review for compliance with the SMP amendment criteria found in WAC 173-26-201(1)(c) and the City’s completion of the SMP Periodic Review Checklist.

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 SMP amendment on August 13, 2019. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP amendment
Ecology also reviewed supporting documents prepared for the City in association with the SMP amendment. These documents include a Public Participation Plan and SMP Periodic Review Checklist.

CONCLUSIONS OF LAW
After review of the complete record submitted and all comments received, Ecology concludes that the City’s proposed amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and applicable SMP Guidelines (WAC 173-26-020 through 173-26-251).

Ecology concludes that the proposed amendment satisfies state approval criteria found in WAC 173-26-201(1)(c). This includes the conclusion that approval of the SMP amendment will not foster uncoordinated or piecemeal development of the state’s shorelines (WAC 173-26-201(1)(c)(i) and assurance that no net loss of shoreline ecological functions will result from implementation of the amended master program (WAC 173-26-201(1)(c)(iv)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-100 regarding public and agency involvement in the SMP review and amendment process, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

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

Ecology concludes that the City SMP submittal for state review was complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-100, and WAC 173-26-110.

Ecology concludes that procedural requirements have been satisfied, in regards to state review and approval of the shoreline master program amendment, as set forth in RCW 90.58.090 and WAC 173-26-100, WAC 173-26-110, and WAC 173-26-120.
Ecology concludes that with this action the City has completed the required process for periodic review of their SMP, in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

DEcision and Effective Date

Based on the preceding, Ecology has determined the proposed amendments are consistent with Shoreline Management Act policies, applicable guidelines and implementing rules. Ecology approval of the proposed amendments is effective 14 days from Ecology’s final action approving the amendment.