

ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED AMENDMENT TO THE CAMAS SHORELINE MASTER PROGRAM

SMP Submittal accepted February 23, 2020, Ordinance No. 21-003
Prepared by Department of Ecology on March 5, 2021

Brief Description of Proposed Amendment

The City of Camas (City) is undergoing a statutorily required periodic review of their Shoreline Master Program. The City chose to utilize the joint review process set forth in WAC 173-26-104. As part of this process on October 23, 2020, per WAC 173-26-104(3)(b), Ecology provided the City with an initial determination of consistency with applicable laws and rules. The City's final adopted ordinance incorporates Ecology's one required change provided as part of the initial determination.

FINDINGS OF FACT

Need for amendment

The City's comprehensive update to their SMP went into effect in 2012 and applies to approximately 26 miles of shoreline along Lacamas and Round lakes and Lacamas Creek and the Columbia and Washougal Rivers. There has been one locally initiated amendment in 2015 to incorporate the 2014 update to the Washington State Wetland Ratings System.

The proposed SMP amendment is needed to comply with the statutory deadline for a periodic review of the Camas Shoreline Master Program pursuant to RCW 90.58.080(4). The proposed amendment includes provisions to address changed local circumstances, new information and improved data and will incorporate the most recent Critical Areas Ordinance (CAO) revisions into the SMP.

SMP provisions to be changed by the amendment as proposed

The City SMP is a standalone document containing policies and regulations, a Shoreline Designation Map in Appendix A, administrative provisions in Appendix B and SMP-specific critical area regulations in Appendix C.

The City prepared a checklist and an analysis that documents the proposed amendment. The amendment will bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporates revisions deemed necessary to reflect changed circumstances, new information, or improved data.

In addition to general edits to correct syntax, formatting and update citations, the following sections of the SMP are proposed to be amended:

A. Shoreline Master Program

1. Revisions are made throughout the document reflecting a city-initiated proposal to end the use of a Shoreline Management Review Committee. The City proposes to have the Shoreline

Administrator issue Substantial Development Permits and use a Hearings Examiner for Shoreline Conditional Use and Variance permits. Related changes are found in Sections 2.2 Shoreline Substantial Development Permit Required; 2.3 Shoreline Exemptions; 2.6 Shoreline Variance; 2.7 Shoreline Conditional Use Permit; and Appendix B - Administration and Enforcement.

2. 1.3 Background. Revisions are made for clarity and to bring the section up to date.
3. 1.10 Effective Date. Revisions update the ordinance citation and effective date of the SMP.
4. 2.3.2. List of Exemptions. Revisions update cost thresholds for substantial development and freshwater docks; edit the aquatic weed exemption; and add an exemption addressing ADA-related external or internal retrofitting of an existing structure.
5. 2.3.3 Statements of Exemption. Revisions clarify when a written exemption will be sent to Ecology.
6. 3.9 Shoreline Modification and Stabilization. Adds a provision to 3.9.2 addressing relief provisions consistent with WAC 173-27-215 when shoreline restoration projects result in a shift in shoreline jurisdiction.
7. 4.4 Official Shoreline Map.
 - a. 4.4.2 File Copies. Minor text revisions.
 - b. 4.4.4 Boundary Interpretation. Adds a provision clarifying Mill Pond is not a regulated waterbody consistent with a Shorelines Hearings Board decision.
8. 6.2 Shoreline Use, Modification, and Standards Tables. Table 6-1 is revised, adding a line for Houseboat or Live-aboard vessel (prohibited); allows for commercial uses in the Urban Conservancy with a Conditional Use Permit; revises building setbacks for water-oriented commercial uses; revises setbacks for recreational water-oriented uses; and adds above-ground utilities to utility uses perpendicular to the shoreline.
9. 6.3.3.3 Marinas. Revises provision (10) to prohibit live-aboard watercraft in the city since there are no marinas.
10. 6.3.3.4 Moorage Facilities: Docks, Piers, and Mooring Buoys.
 - a. 6.3.3.4(12) is revised to clarify when a private recreational moorage facility is allowed.
 - b. 6.3.3.4(24) and (27) revisions to dock and piling dimensional standards are made, consistent with necessary engineering requirements for docks on the Columbia River.
 - c. 6.3.3.4(26) is edited to clarify that recreational floats are not to be used for mooring motor boats.
11. 6.3.14 Transportation Uses. Revisions clarify that new roads must be set back from waterbodies and adds special procedures for WSDOT projects.
12. 6.3.15 Utilities Uses. Adds language allowing for utility distribution and transmission lines to be placed within the footprint of an existing roadway.
13. Chapter 7 Definitions. The following terms are revised: development, Houseboat or Live-aboard Vessel, Qualified Professional, and Substantial Development.

B. Appendix A – Shoreline Map

1. Mill Pond is labeled.
2. The map is revised to incorporate two areas newly annexed by the City. The city limits have changed in the SE corner of Lacamas Lake and the SW corner of the city along Highway 14 bordering the Columbia River.

C. Appendix B – Administration and Enforcement

1. Revisions are made throughout the appendix to reflect the City’s new approach to shoreline permit administration. The Shoreline Management Review Committee is abolished. The Shoreline Administrator will have authority to issue decisions on Substantial Development Permits and permit revisions. The Hearings Examiner will make decisions on Shoreline variances and conditional use permits.
2. I. Administrative Authority and Responsibility, III. Review and decision process, IV. Hearing examiner decision process, XIII. Permit revision, XIV. Permit rescission, IV. Permit appeal. Revisions remove the existing Section II. Shoreline Management Review Committee and clarify the roles of the Shoreline Administrator and the Hearings Examiner in permit decisions.
3. VII. Notice of application. Edits clarify notification requirements.
4. VIII. Variances and IX. Conditional use. Revisions ensure both sections are consistent with the review criteria in WAC 173-27-170 and WAC 173-27-160 respectively.
5. X. Exemptions. Revisions clarify when a written exemption is required.
6. XI. Filing permits with the Department of Ecology. The section is retitled to reflect the content of the section. Additional revisions clarify notification to parties of record.
7. XII. Permit validity and expiration. Revisions clarify the “date of filing” and the start of construction.

D. Appendix C – Camas Critical Area Regulations and Maps

1. 16.51.030 Relationship to other regulations. A new provision clarifies how the regulations in the Appendix apply to areas within shoreline jurisdiction. Additional edits clarify how these are implemented.
2. 16.51.090 Applicability. Edits add shoreline conditional use and variance permits.
3. 16.51.110 Allowed activities. Tree provisions are relocated to new section 16.51.125.
4. 16.51.125 Vegetation removal permit. A new section is added consistent with the Camas Tree Ordinance. Provisions identify information needed in an application to remove vegetation and trees from a critical area or management zone (buffer) and mitigation required. Hazard trees are also addressed.
5. 16.51.200 Unauthorized critical area alterations and enforcement. A provision is added clarifying monitoring report requirements and the need for corrective measures if performance measures are not being met. Enforcement provisions are expanded.
6. 16.51.210 Critical area markers, signs and fencing. Fencing provisions are updated.
7. 16.53.050 Wetland permits. Revisions are made to C. Buffer Standards and Authorized Activities to clarify that buffer reductions may be allowed if applicable minimization measures are implemented. These measures are set forth in new Table 16.53.050-1.

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. An important element of the public

participation plan is the City's SMP Periodic Review project [website](#)¹. The City convened a Technical Advisory Committee late in 2019 to identify the scope of the periodic review. A City Council workshop was held February 18, 2020. The City planned to hold an open house in the spring but these plans were revised due to the COVID-19 pandemic. Instead, a short informative video was developed and posted on YouTube encouraging people to get involved. A Planning Commission workshop was held remotely, using Zoom, in July.

The City used Ecology's Periodic Review 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 including opportunities to comment on draft materials in January and May 2020.

The City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance and checklist on August 27, 2020. Notice of the proposed amendment was submitted to Department of Commerce on November 5, 2020.

The City provided notice to local parties, including a statement that the hearing was intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). An affidavit of publication provided by the City indicates notice of the hearing was published on August 13, 2020. Ecology distributed notice of the joint comment period to state interested parties on August 12, 2020, including separate notice to the Confederated Tribes of Grande Ronde, Yakama Nation and Cowlitz Indian Tribe. Neither Ecology nor the City received any comments or contact from any Tribe.

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 August 13, 2020 and continued through September 14, 2020. A public hearing before the Planning Commission was held virtually via Zoom on September 15, 2020. Ecology staff attended the hearing.

The City accepted public comments on the proposed SMP amendments during the 30-day public comment period. Written comments were submitted by seven individuals or organizations on the proposed amendments.

The City prepared a Comment Summary and Response and considered all comments. Comments included: management of Lacamas Lake; the condition of marinas in the county (none are located in Camas); effects, if any to tidelands; suggested revisions to wetland provisions; and mapping, particularly related to Mill Pond which is not a shoreline of the state. Three revisions were made in response to comments and incorporated into the draft SMP Amendment prior to initial submittal.

Ecology commented on the critical areas regulations with a recommendation the city revise the SMP CAO wetland provisions to include a more robust list of minimization measures consistent with our most

¹ <https://www.cityofcamas.us/planning/planningenvironmentalshorelinemaster>

current, accurate, and complete scientific and technical information available. Use of all applicable measures will allow for a reduction in the buffer widths required for High Intensity land use to the Moderate Intensity buffer widths. The City has proposed amended text in the SMP-specific critical area regulations to address Ecology's comments.

Initial Determination of Consistency and Final Submittal

The proposed SMP amendments were received by Ecology on October 1, 2020 for initial state review. The submittal was supplemented on October 15, 2020 and verified as complete on October 16, 2020. This began Ecology's review and initial determination.

A written statement of initial concurrence was sent to the City on October 23, 2020. Ecology considered the comments received, and the City's responses to these comments. Ecology identified one required change to the proposal to add language in the aquatic weed exemption to address upland noxious weeds. There is no specific exemption listed in the Act for the removal of upland noxious weeds and the proposed revision to the existing exemption for aquatic weed removal was inconsistent with the statute and Ecology's rule. The allowance for removal of other noxious weeds listed on the State Noxious Weed List is addressed in provision 5.8(3) of the SMP and in the Critical Areas Ordinance in Appendix C. In addition, proposals to remove upland noxious weeds using certain methods may not trigger the need for an exemption or shoreline permit because it does not meet the definition of development. The City's locally adopted SMP incorporates this change.

With passage of Ordinance 21-003, on February 16, 2021, the City Council authorized staff to forward the proposed amendment to Ecology for formal review. The City's final submittal of the SMP amendment was received by Ecology on February 19, 2021 with supplemental materials received February 22, 2021. The submittal was determined complete on February 23, 2021.

Ecology consideration of comments

Ecology has reviewed all the comments received during the joint review process along with the City's responses. Ecology finds the City considered whether to incorporate any amendments to reflect changed circumstances, new information, or improved data as provided or raised during the comment period. The City has determined, and Ecology concurs, that no additional amendments are warranted at this time based on the significance of the information and the existing SMP provisions².

Summary of Issues Identified by Ecology as Relevant to Its Decision

Ecology has identified recommended changes (see Attachment B – Recommended Changes) related to the City's flood hazard provisions located in Appendix C, Chapter 16.57 – Frequently Flooded Areas. Around the time the final SMP submittal was received from the City, Ecology shoreline staff learned about the pending adoption of a new flood hazard ordinance³.

Adoption of the new flood ordinance will result in different flood regulations depending on location in or out of shoreline jurisdiction with the areas in shoreline jurisdiction subject to the older flood code. Revising the SMP to ensure regulatory consistency across the City, regardless of location in or out of shoreline jurisdiction is recommended. Making this change now will also avoid the need for an

² WAC 173-26-090(3)(b)(iii)

³ The new ordinance, scheduled for adoption in mid-March, would revise CMC Chapter 16.57 Frequently Flooded Areas. Updates to the flood code are related to a Community Assistance Visit under the National Flood Insurance Program. Some needed revisions were identified for consistency with NFIP requirements.

additional SMP amendment in the near term. The purpose of the CMC Chapter 16.57 regulations is for National Flood Insurance Program (NFIP) certification, not the SMA. These regulations, by-and-large, are building codes and are not necessary for consistency with RCW 90.58 or the SMP guidelines. The SMP would remain consistent with the flood hazard reduction requirements of WAC 173-26-221(3) through implementation of 3.6 Flood Prevention and Flood Damage Minimization and 5.4 Flood Prevention and Flood Damage Minimization.

Ecology recommends the City remove the incorporation by reference to CMC Chapter 16.57 and replace it with a soft reference with explanation that these provisions are applicable but implemented separately from the SMP.

Consistency Review

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 for compliance with the SMP amendment criteria found in WAC 173-26-201(1)(c) and review of the 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) August 27, 2020 for the proposed SMP amendments. The record indicates this was published in the *Camas Post Record* on August 27, 2020. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP amendments

Ecology also reviewed supporting documents prepared by the City in support of the SMP amendments. These documents include the public participation plan, the periodic review checklist, the comment summary and response, supporting documents for the locally initiated amendments, and the Staff Report on the SMP Periodic Review amendment.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, we conclude that the City's proposed amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Ecology concludes that the proposed amendment satisfies the criteria for approval of SMP amendments found in WAC 173-26-201(1)(c). This includes the conclusion that approval of the SMP amendment will not foster uncoordinated and piecemeal development of the state's shorelines (WAC 173-26-201(2)(c)(i) and will assure no net loss of shoreline ecological functions will result from implementation of the amended master program (WAC 173-26-201(2)(c)(iv) and WAC 173-26-186(8)).

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

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

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-104 regarding public and agency involvement in the SMP review and amendment process, including conducting open houses and public hearings, providing notice, consulting with parties of interest and soliciting 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's SMP submittal to Ecology was complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-104, and WAC 173-26-110.

Ecology concludes that Ecology has complied with the procedural requirements for review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-104, 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 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 periodic review amendments to the SMP are consistent with Shoreline Management Act policy, the applicable guidelines and the implementing rules.

Ecology has also determined that SMP would benefit from incorporation of the recommended changes identified in Attachment B. Ecology recommends these modifications, but they are not necessary for consistency with the SMA or applicable guidelines. The City may choose to adopt the recommended changes included in Attachment B, *Recommended Changes*. Pursuant RCW 90.58.090(2)(e), the City must notify Ecology of the approval or denial of the proposed recommended changes before Ecology can take final action of this periodic review.

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

Upon written receipt of the City's decision to include, propose alternative language, or reject Ecology's recommended changes, Ecology will take final action on this SMP periodic review amendment. The updated SMP will be effective 14 days from Ecology's final action approving the amendment.