

**ATTACHMENT A: FINDINGS AND CONCLUSIONS**  
**CITY OF LONGVIEW SHORELINE MASTER PROGRAM PERIODIC REVIEW AMENDMENT**

SMP Submittal accepted January 5, 2022, Ordinance No. 3455  
Prepared by Department of Ecology on February 8, 2022

## INTRODUCTION

The Department of Ecology (Ecology) Findings and Conclusions (presented herein as Attachment A), provide the factual basis for our decision on the City of Longview (City) Shoreline Master Program (SMP) periodic review and associated amendment. This document is divided into three sections providing an Introduction; the Findings of Fact regarding the amendment history, initial determination of consistency, local and state review and the final submittal; and Conclusions.

### Brief Description of Proposed Amendment

Longview is undergoing a statutorily required periodic review of their SMP and has submitted an amendment to Ecology for approval. As part of this review, the City chose to utilize the joint review process set forth in WAC 173-26-104. As part of this process, on October 26, 2021, per WAC 173-26-104(3)(b), Ecology provided the City with an initial determination of consistency with the policy of the Shoreline Management Act (SMA) and applicable rules. The City's final adopted ordinance incorporated all Ecology's required and recommended changes provided as part of the initial determination.

## FINDINGS OF FACT

### Need for amendment

Longview comprehensively updated their master program in August, 2015. The proposed amendment is needed to comply with the statutory deadline for a periodic review of the SMP pursuant to RCW 90.58.080(4).

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

The City prepared a checklist and an analysis documenting the proposed amendment. The amendment brings the SMP into compliance with requirements of the SMA or state rules that have been added or changed since the City completed their SMP comprehensive update. This review also ensures that the City's SMP remains consistent with the City's Comprehensive Plan and development regulations.

The SMP regulates shoreline uses and activities along shorelines within city limits including the Columbia River, Cowlitz River, and Lake Sacajawea. The Columbia and Cowlitz Rivers are also classified as Shorelines of Statewide Significance per RCW 90.58.020.

Longview's SMP is a standalone document, adopted by reference into their code by section 17.60.010 of the Longview Municipal Code (LMC). It contains goals, policies, and regulations along with critical area regulations included as an Appendix.

In addition to general edits to correct and update syntax, formatting and citation corrections, the following specific SMP sections are proposed to be amended:<sup>1</sup>

#### *Chapter 2: Definitions*

1. Definition for the following term is added: Date of filing.
2. Definition for the following term is removed: Date of receipt.
3. Revision is made to the following definition: Development.

#### *Chapter 3: Administrative Provisions*

1. Added a reference to WAC 173-27-044, clarifying exceptions to local review [C.1]
2. Revised the description of the process for filing permits with Ecology for consistency with 2011 statutory amendments [F.2]

#### *Appendix A: Shoreline Critical Area Regulations*

1. Replaced precise citation with a more general one for the approved federal wetland delineation manual for consistency with Ecology guidance [2.A, 2.D]
2. Deleted a provision in the Exempted Wetlands section that does not apply in shoreline jurisdiction, for consistency with WAC 173-26-221(2) [2.C]
3. Updated citations to the LMC throughout Appendix A for accuracy [II.2.D, 2.G, 2.J; IV.D.I].

### 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](#)<sup>2</sup>. The Planning Commission held public meetings July 7, 2021 and October 6, 2021 to discuss the proposed SMP Periodic Review. Due to the COVID-19 Pandemic, the City held public meetings in a virtual format using Zoom, including the Planning Commission Public Hearing addressing this topic, on October 6, 2021<sup>3</sup>. All Planning Commission meetings were broadcast on a loop on local public access television.

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.

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<sup>1</sup> All references are to section numbering in the revised locally adopted SMP amendment submitted for Ecology review.

<sup>2</sup> <https://www.mylongview.com/159/Shoreline-Master-Program>

<sup>3</sup> Documents were posted to the City's webpage and interested parties were encouraged to become involved. The public hearing and open house were held on the same date.

The record indicates the City completed a State Environmental Policy Act (SEPA) checklist and issued a Determination of Non-Significance (DNS) on August 6, 2021 for the proposed amendments to the SMP. The City provided 60-day Notice of Intent to Adopt to the Department of Commerce on August 6, 2021.

*Joint Local/State comment period under WAC 173-26-104*

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 30, 2021 and continued through October 4, 2021. A joint public hearing before the Planning Commission took place via Zoom on October 6, 2021.

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). The City's record indicates notice of the hearing was published on August 29, 2021 in *The Daily News*. Ecology distributed notice of the joint comment period to state interested parties on September 2, 2021. Separate notice, and an invitation to consult, was sent September 2, 2021, to the Yakama Nation Tribal Council, Confederated Tribes of Grande Ronde, and the Cowlitz Tribe.

No comments were received on the proposed SMP amendment during the 30-day public comment period or public hearing.

*Initial Determination of Consistency*

As part of this review, the City chose to utilize the joint review process set forth in WAC 173-26-104. After the joint local-state comment period and hearing, the City submitted the proposed amendment to Ecology for initial review. Ecology is required under WAC 173-26-104(3)(b) to provide the City with an initial determination of consistency with the policy of the Shoreline Management Act (SMA) and applicable rules.

The proposed SMP amendment was received by Ecology on October 8, 2021 for initial state review. The submittal was verified as complete on October 12, 2021. This began Ecology's review and initial determination.

Based on our review of the record, we concluded that portions of the proposal were not consistent with applicable laws and rules.

On October 26, 2021 we provided a written statement describing the specific areas of concern and changes necessary. We identified one (1) required change. Ecology found that the wetland provisions set forth in Appendix A included an exemption for certain wetlands. Per Ecology guidance, this exemption does not apply in shoreline jurisdiction. We also identified three (3) recommended changes to improve clarity of the proposed amendments. After review by Ecology of the complete initial record submitted, Ecology determined that the City's proposed amendment, subject to and including Ecology's required change, were consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable guidelines (WAC 173-26-171 through -251 and -020, Definitions). We concluded that if the issues identified within our required and recommended changes were resolved prior to local adoption, we anticipated being able to approve this SMP periodic review amendment upon formal submittal per WAC 173-26-110.

*Final Submittal*

With passage of Ordinance No. 3455 on December 9, 2021, the City Council authorized staff to forward the proposed amendment to Ecology for formal review. The City's final adopted ordinance incorporated

Ecology's one required change and all three (3) recommended changes provided as part of the initial determination.

The City's final submittal of the SMP amendment was received on December 30, 2021. The submittal was determined complete on January 5, 2022. This began our formal review and decision making process per WAC 173-26-120.

At the conclusion of our formal review, Ecology's Director must decide to approve the amendment as submitted, approve it with required and/or recommended changes, or deny approval.

## 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 amendments have 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 an 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 6, 2021 for the proposed SMP amendments. The record indicates notice of the DNS was published in *The Daily News* on August 7, 2021.

## CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes 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).

Ecology concludes that the proposed amendments satisfy the criteria for approval of amendments found in WAC 173-26-201(1)(c). This includes the conclusion that approval of the SMP amendments 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 90.58.130 and WAC 173-26-090 and WAC 173-26-104 regarding public and agency involvement in the SMP review and amendment process, including conducting a public hearing, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

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 requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City 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 we have complied with the state's 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

After review by Ecology of the complete record submitted, Ecology has determined that the City's proposed amendment is consistent with the Shoreline Management Act policy and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions) and implementing rules. With this approval, Ecology affirms the City has completed the requirement for a periodic review under RCW 90.58.080(4). Ecology approval of the proposed amendments is effective 14 days from Ecology's final action approving the amendment.