Brief Description of Proposed Amendment

The City of Medical Lake (City) is undergoing a statutorily required periodic review of their Shoreline Master Program (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.

FINDINGS OF FACT

Need for amendment

Medical Lake comprehensively updated their master program in February 2016. This proposed amendment is needed to comply with the statutory deadline for a periodic review of the SMP pursuant to RCW 90.58.080(4).

The amendment will bring the SMP into compliance with requirements of the Shoreline Management Act, or state rules that have been added or changed since the City’s SMP was comprehensively updated in 2016. This periodic review is also intended to 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.

SMP provisions to be changed by the amendment as proposed

Medical Lake’s SMP is a standalone document containing goals, policies and regulations, including critical area protection standards which are located in Chapter 4 Section VI. The SMP goals and policies are considered a chapter of the City’s Comprehensive Plan. All other portions of the SMP are part of the City’s development regulations. The Official Shoreline Designation Map is located within Chapter 6 - Figure 1. The SMP regulates shoreline uses and development along all of Medical Lake, and sections of West Medical and Silver Lakes.

The City prepared a checklist and an analysis documenting the proposed amendment. In addition to overall organizational changes, general edits to correct and update syntax, formatting and citations throughout the SMP, the following specific SMP sections are proposed to be amended:

*Chapter 3 Goals and Policies for Shoreline Environments*

**Subsection V. Circulation:** A minor footnote was removed for clarity, based on feedback received from Ecology in early draft review. The note indicated that that a long-term goal of the City was to vacate 5th street leading up to Eastern State Hospital due to runoff concerns. Subsequent conversations with the hospital made it clear that this was not feasible, and the aspiration is no longer appropriate as a long-term goal. This note was simply deleted from the section with no other substantive changes.
Chapter 4 Shoreline Regulations

Definitions: Development and Floodway are modified for consistency with RCW and WAC definitions and definitions for Nonconforming use, Nonconforming development and Nonconforming lot are added based on updated language in WAC 173-27-080.

Shoreline Development Review: A reference to the restoration relief mechanism and approval process is added to this subsection. The fair market value cost threshold for substantial development and docks are updated. A new subsection is added to address development not required to obtain local shoreline permits or review consistent with RCW 90.58.355 and 356. Special procedures for Washington State Department of Transportation projects are added to the statement of exemption section per RCW 90.58.140. Nonconforming section is updated to reflect 2017 changes to WAC 173-27-080. Reference to optional joint review process is added to Shoreline Program Review and Amendment subsection. New shoreline permit filing subsection added consistent with the procedural requirements of RCW 90.58.140 and WAC 173-27.

Use and Setbacks: Minor edits to notes and footnotes in Table 1 Use Compatibility Matrix and Table 2 Setback, Height, and Dimensional Standards Matrix.

Critical Areas within Shoreline Jurisdiction: Updates to wetlands provisions to require the use of approved federal wetland delineation manual and updated Ecology wetland rating system. Also added clarifying language in some wetland category descriptions and included allowance for use of certified wetland mitigation banks.

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. A consultant, hired by the City developed draft documents. Due to the COVID-19 pandemic, the City held public meetings in a virtual format using Zoom. The Planning Commission held remote meetings addressing this topic, beginning June 10, 2020 and continuing through January, 2021 culminating in a planning commission hearing March 25, 2021 and a City Council Hearing April 20, 2021.

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. Ecology reviewed draft materials and provided the City with written comments in November 2020. The City’s public comment draft and adopted ordinance incorporated all our recommended changes provided as part of the November 2020 review.

The record indicates the City completed a SEPA checklist and issued a Determination of Non-Significance (DNS) on February 5, 2021 for the proposed SMP amendment.

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 joint comment period, hearing, and issuance of the DNS was combined and published in *The Cheney Free Press* on February 4, 2021 and February 11, 2021. Ecology distributed notice of the joint comment period to state interested parties on January 21, 2021. Separate notice, and an invitation to consult, was sent to the Spokane Tribe on January 21, 2021.

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 February 5, 2021 and continued through March 8, 2021. The joint local/state public hearing was held before the City’s Planning Commission on March 25, 2021. The City accepted public comments on the proposed SMP amendments during the 30-day public comment period and during the public hearing.

No written comments were submitted on the proposed amendments. One individual attended the joint public hearing and provided oral testimony. The commenter raised the following questions or concerns:

- Why is the cost threshold increasing?
- Concerns about increased tourism and access to Medical Lake
- Concerns with erosion control, stormwater, trail maintenance, and potholes.

The City summarized and responded to the testimony in a comment matrix. The City explained that the cost thresholds are set by the state. The City responded to clarify that the proposed SMP amendment does not change the shoreline access requirements of the SMP. Finally, the City expressed that the SMP and City stormwater regulations both employ best management practices and critical areas standards that address the commenter’s erosion control, stormwater, and trail maintenance concerns. No additional modifications to the SMP were proposed in response to comments.

*Initial Determination of Consistency and Final Submittal*

The proposed SMP amendments were discussed with Ecology throughout the amendment development process.

The draft SMP amendment was reviewed by Ecology and comments, including recommended changes, were provided to the City on November 12, 2020. Ecology considered the record and concluded the proposal was consistent with applicable laws and rules, subject to one clarification regarding regulatory relief provisions of RCW 90.58.580. This recommended change was provided to improve clarity and internal consistency, and not required for consistency with the SMA or SMP Guidelines. The City incorporated this recommendation into the draft SMP prior to the start of the joint local/state comment period. No substantive comments were received during the joint comment period and the City proposed no additional modifications to the SMP as a result of comments received. Following the close of the joint comment period and public hearing, Ecology affirmed that the draft SMP remained consistent with our previous review for consistency with the SMA and implementing guidelines. The draft amendment was then provided to the City Council for consideration prior to local adoption.

With passage of Resolution No. 531 on May 4, 2021, the City authorized staff to forward the locally adopted amendment to Ecology for formal review and approval. The City’s final submittal of the SMP
periodic review amendment was received on June 14, 2021, and was determined complete by Ecology on June 17, 2021. This began our formal review of the City’s proposed amendment.

At the conclusion of our formal review, Ecology’s Director must decide to approve the program as submitted, approve it with require 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 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) February 5, 2021 for the proposed SMP amendments. The record indicates notice of the DNS was published February 4, 2021.

*Other Studies or Analyses supporting the SMP amendments*

Ecology also reviewed supporting documents prepared by or for the City in support of the SMP amendments. These documents include the public participation plan and the 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 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 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 the City has compiled 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 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 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**

Based on the preceding, Ecology has determined that the City’s proposed SMP periodic review 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 amendment is effective 14 days from Ecology’s final action approving the amendment.