

# ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED PERIODIC REVIEW OF CITY OF PACIFIC SHORELINE MASTER PROGRAM

SMP Submittal accepted June 18, 2019, Ordinance No. 2019-2002  
Prepared by Department of Ecology on September 20, 2019

## Brief Description of Proposed Amendment

The City of Pacific has submitted a Shoreline Master Program (SMP) amendment to Ecology for formal review to comply with periodic review requirements.

## FINDINGS OF FACT

### Need for amendment

The proposed amendment is needed to comply with the statutory deadline for a periodic review of the City of Pacific (City) Shoreline Master Program pursuant to RCW 90.58.080(4). The City prepared a checklist that documents proposed revisions. The amendment brings the SMP into compliance with requirements of the Shoreline Management Act (Act) or state rules that have been added or changed since the last SMP amendment, ensures 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

The following sections/provisions of the City's SMP (PMC Title 21) are proposed for change:

- **21.01 Purpose & Applicability** –
  - 030 Applicability – Add provisions to describe local shoreline jurisdiction, name the affected waterbody, address lands of exclusive federal jurisdiction, establish an overall conformance requirement, provide internal reference to activities excepted from local review and permitting, and to establish that the effective FEMA FIRMs do not delineate a floodway;
- **21.08 Definitions** – Add or revise terms: associated wetlands, development, floodway, industrial use, heavy and –light, shorelines of statewide significance, and substantial development to clarify, establish deconstruction as excluded from development, and to correct the fair market value cost threshold amounts;
- **21.10 Shoreline Overlay Districts Established** –
  - 070 Shoreline Overlay Districts, Map, and Boundaries – Remove FEMA FIRM reference that is addressed elsewhere as jurisdiction;
  - 080 Official Map - Add provisions to clarify the limits on accuracy of the official shoreline map, and to establish criteria for interpreting the precise boundaries of the environment designations depicted in the map;
  - 090 Shoreline Designations by Reach – Table 21.10.090 – Clarify areas landward and waterward of the levee, the ‘left bank’ perspective, and those reaches in the City’s urban growth area that are predesignated;

- **21.20 General Standards & Use Regulations –**
  - 020 Critical Areas within Shoreline Jurisdiction – Clarify incorporation by reference of the City’s updated Critical Areas Ordinance (PMC Title 23; 2019), and specify the detailed exceptions to applying those Title 23 provisions within shoreline jurisdiction for internal consistency and as consistent with the most current wetlands technical guidance;
- **21.40 Shoreline Uses –**
  - 050 Commercial, Light Industrial, Community Services & Essential Facilities – Add ‘light industrial’ to provisions throughout the sub-section;
- **21.50 Shoreline Administration –**
  - 050 Development not required to obtain shoreline permits or local review – Add provisions to specify those activities that are excepted from SMA local review or shoreline permitting as distinct from substantial development permit exemptions;
  - 060 Exemption from Substantial Development Permit – Clarify those activities exempt from substantial development permit requirements to adjust the fair market value cost threshold, non-commercial docks and their fair market value cost threshold; to remove those activities addressed as excepted from SMA review, and to add the new ADA retrofit exemptions;
  - 070 Exemption Certification Procedures – Delete confounding reference to partially-exempt proposals;
  - 180 Time Requirements for Shoreline Permits – Add provisions to specify permit filing requirements, and the special expedited review requirement for WSDOT state highway projects;
  - 260 Amendments authorized – Add provisions to reflect both the standard review process and the new, optional joint review process for SMP amendments;
  - 300 Transmittal to Ecology – Add provision to note SMP effective date is 14-days after Ecology final approval;

The following sections/provisions of the City’s 2011 Critical Areas Ordinance (PMC Title 23) are proposed for change for application within shoreline jurisdiction:

- **23.10.130 Substantive Requirements** – Revise mitigation sequence language for consistency;
- **23.10.140 Variances** – Revise to clarify applicable SMP references and how reasonable use exceptions are to be processed as a shoreline variance;
- **23.20.010 Wetlands - Designation** – Revise to require compliance with the approved federal wetland delineation manual and applicable regional supplements;
- **23.20.040 Wetlands - Substantive Requirements** – Revise to add reference to new shoreline wetland buffer standards, to clarify SMP review and permitting processes apply, and to provide a cross reference to the SMP for wetland buffer vegetation management standards;
- **23.20.050 Wetlands – Mitigation** – Revise to clarify mitigation banking standards;
- **23.20.045 Wetlands – Buffers in Shoreline Jurisdiction** – Revise to add specified provisions for wetland buffers based on habitat score using the 2014 Wetland Rating System, including Table 1 for buffers allowed with implementation of Table 2 minimization measures and a wildlife corridor, and Table 3 buffers required without impact minimization & wildlife corridor;

- **23.20.060 Provisions for Small Wetlands within Shoreline Jurisdiction** – Add provisions consistent with the most current technical guidance;
- **23.20.070 Wetland Buffer Averaging** – Add provisions for administrative averaging allowed when consistent with the identified criteria;
- **23.60.050 Fish & Wildlife Habitat Conservation Areas – Substantive requirements** – Revise to clarify SMP standards also apply, and to retain the Table 23.60.050(K)(b) standard, administratively modified, and Conditional Use modified riparian buffer widths, with limitations, previously established by the 2013 SMP Comprehensive Update;

### Amendment History, Review Process

The City prepared a public participation plan 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’s public engagement efforts included: email distribution list, City webpage notices and a project-specific webpage, feature article in the City newsletter, FAQ handout, announcement flyers and reader boards, legal notice in the *Auburn Reporter* local newspaper, open public meetings/study sessions with Planning Commission and City Council, including public comment opportunities and a public hearing.

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 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 held two local comment periods on the proposed amendment following procedures outlined in WAC 173-26-104. The first comment period started on March 13, 2019 and ended March 26, 2019; the Planning Commission held a public hearing that opened March 26, 2019 and closed April 23, 2019. The City Council comment period began on May 13, 2019 and closed May 27, 2019.

The City provided notice to local parties about the proposed amendments. Materials provided by the City indicate notice of the hearing was published in *The Auburn Reporter* on March 15, 2019.

With the passage of Ordinance #2019-2002 on May 28, 2019, City Council adopted the SMP amendment to be effective fourteen days after final approval by the department.

The proposed SMP amendment was received by Ecology for state review and verified as complete on June 18, 2019. On July 10, 2019, notice of the public comment period was posted

on Ecology's website. On July 8 and 12, 2019, notice of the state comment period was distributed via email to state task force members and to interested parties identified by the City, in compliance with the requirements of WAC 173-26-120. The state comment period began on July 15, 2019 and continued through August 14, 2019. No individuals or organizations submitted comments on the proposed amendment.

### 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) along with review of the SMP Periodic Review Checklist 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.

### Other Studies or Analyses supporting the SMP amendment

Ecology also reviewed supporting documents prepared for the City in support of the SMP amendment. These documents include a public participation plan, and a 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 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 regarding public and agency involvement in the SMP update and amendment process.

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(1)(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(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 173-26-104 regarding public and agency involvement in the SMP review and amendment process, including conducting open meetings 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 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 it 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 of Pacific 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 amendments, as submitted, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Ecology approval of the proposed amendments is effective 14 days from Ecology's final action approving the amendment.