Brief Description of Proposed Amendment
The City of Sammamish (City) has submitted Shoreline Master Program (SMP) amendments to Ecology for review to comply with periodic review requirements.

FINDINGS OF FACT

Need for amendment
The City's comprehensive update to their SMP went into effect in 2011 and the City made a limited amendment that went into effect in 2017. The proposed amendments are needed to comply with the statutory deadline for a periodic review of the City Shoreline Master Program pursuant to RCW 90.58.080(4).

SMP provisions to be changed by the amendment as proposed
The City prepared a checklist and a gap analysis that documents proposed amendments. The amendments 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 incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data.

The City also proposes to make the following changes:

1. To ensure compliance with the SMA and state rules:
   a. Necessary items from the Periodic Review Checklist are incorporated into the SMP.

2. To reflect changed circumstances, new information, and improved data:
   a. Definitions added for Nonconforming Development, Nonconforming Lot, Nonconforming Use, Owner, and Private Beach Park Use.
   b. A new use, “Private Beach Park,” is added to the Use Matrix in Table 25.07.010-1. Regulations for this use are added in SMC 25.07.050 (Private docks, floats, mooring buoys and watercraft lift regulations) and 25.07.130 (Private beach park use regulations).
   c. Maximum allowed overwater coverage for joint-use docks in the Urban Conservancy environment is reduced to 480 square feet.
   d. A new provision for “private joint access beach parcels” is added to the residential use standards [SMC 25.07.080(9)]. These are lake access parcels that are subordinate to an upland residential use.
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Lakeside Recreational Lot Impact Analysis
The City has found that private recreational use along some areas of Lake Sammamish has been intensifying. The City commissioned a study with Environmental Science Associates (ESA) to characterize private lakeside recreational lots and their potential impacts.

The Lakeside Recreational Lot Impact Analysis Memorandum (ESA, April 2019) analyzed several legally-established, undersized lots along the Lake Sammamish shoreline. These lots are generally too small to support a residential use and so are being used for private recreation. The memo identified potential impacts from this use and possible amendments to the SMP to address these impacts. The memo found that “These private recreational lots generally do not have dedicated parking, restrooms, or other improvements. For some of the properties, owners have private docks and/or floats and mooring buoys, and the City has recently seen an increase in shoreline development applications for new docks and/or larger ‘joint use’ docks on these properties. The City has also seen an intensification of use at several of the private recreational lots, with ownership shared between two or more parties, all with rights of access and use for shoreline access, boating, and other lakeside recreational activities.”

According to the memo, most of these lots occur in the north portion of Lake Sammamish and are in the Urban Conservancy environmental designation. The memo estimates that there are approximately 35-40 undersized lots that could potentially be used for private recreational uses. The memo recommends that the City list private lakeside recreational activities as a distinct use with associated use standards to ensure the City is able to consistently review and condition permits for associated development and ensure adequate measures for mitigating impacts from the use on shoreline ecological functions are implemented.

Figure 1: From the Lakeside Recreational Lot Impact Analysis
To address these issues, the City proposes to add a new use to the SMP, “private beach park.” The City proposes to define this as “privately owned shoreline properties used by an owner (or an ownership or membership group) for water-oriented recreational activities that are not associated with or subordinate to residential use, with associated facilities necessary for access, active use of shorelands, and allowances for private docks, floats, and mooring buoys.”

This new use, “private beach park,” will be a conditional use in all environments. When property owners would like to expand the use, or propose new development, they will need to obtain a conditional use permit. They will also need to submit a site maintenance plan, which must include plans for proposed intensity of use, parking, restroom use, and vegetation maintenance. Docks associated with this use (and any other use) in the Urban Conservancy environment will be limited in size to 480 square feet, with no option for larger sizes with joint-use docks.

**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.

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 a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on May 7, 2019 and continued through June 6, 2019. A public hearing before the Planning Commission was held on June 6, 2019.

The City provided notice to local parties, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). Affidavits of publication provided by the City indicate notice of the hearing was published on April 3, 2019 in the Sammamish Courier Herald.

Ecology distributed notice of the joint comment period to state interested parties on May 3, 2019.

Nine (9) written comments were submitted on the proposed amendments. An additional six (6) oral comments were provided at the public hearing (three of these commenters also submitted written comment). The City submitted to Ecology its responses to issues raised during the comment period on July 3, 2019, however this did not include a response to comments presented at the public hearing. Several comments were about the new proposed private beach park use. Some citizens expressed
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Concern with allowing private recreation on lots that don’t have an associate upland residential use. Two commenters were concerned about the potential size of docks on private beach park lots. The City responded that part of the amendment includes reducing the allowed size of joint-use docks to 480 square feet, the same as residential docks. Another commenter commended the City for addressing the issue of private beach park use, but identified additional concerns not addressed by the amendment, including: the new use is not limited to the small remnant lots along Lake Sammamish, and there is no limit on size of ownership of private lots, which could potentially be very large.

The Washington Department of Natural Resources (DNR) commented on the new proposed use, as well. They note that while property owners may install and maintain a dock and mooring buoy on state-owned aquatic lands free of charge, this only applies if the modification is associated with an adjacent upland residential use. DNR recommended the City add a provision to the SMP requiring applicants for overwater structures or mooring buoys to obtain authorization from WDNR. The City responded that they believe there are no state-owned aquatic lands in the City of Sammamish. Ecology staff reached out to WDNR to request more information about this comment but has not heard back. Adding such a provision is not necessary for consistency with the SMA or SMP Guidelines, so the City did not make any changes to the amendment in response to this comment. Should projects be proposed on state-owned aquatic lands, the need to obtain leases from WDNR can be addressed at that time.

Both the Muckleshoot Indian Tribe Fisheries Division and the Snoqualmie Tribe requested that the City update its definition of fish-bearing streams to use physical criteria from WAC 222-16-031. The Planning Commission discussed this at the public hearing, but decided to address this issue during a later SMP amendment.

The proposed SMP amendments were received by Ecology on July 8, 2019 for initial state review and verified as complete the same day.

Ecology’s initial review concluded that the proposal was largely consistent with applicable laws and rules, but that portions of the proposal were not consistent with applicable laws and rules. Ecology provided a written statement describing the specific areas of concern and changes necessary. Ecology identified three (3) required changes to the draft amendment necessary for consistency with the SMA and the implementing guidelines. Issues identified were related to internal consistency. Ecology also identified two (2) recommended changes for improved implementation of the SMP.

The City provided a response confirming that all required and one recommended changes would be incorporated into the SMP amendment prior to local adoption. The second recommended change, related to updating terms in the SMP policies, will be addressed during a later amendment.

Following the initial determination, the City made an additional change to the amendment. The City Council opted to apply dock size restrictions to all lakes in the City (not just Lake Sammamish), while also limiting these restrictions to only the Urban Conservancy environment. The purpose of this change was to minimize impacts to the Urban Conservancy environment, where ecological functions are higher, while to continuing to allow incentives for joint-use docks in Shoreline Residential. Further, most of the private recreational lots are in the Urban Conservancy environment. With passage of Ordinance #O2019-493, on November 19, 2019, the City authorized staff to forward the proposed amendments to Ecology for formal approval.
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 demonstrating that the SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2) were followed.

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.

Summary of Issues Relevant to Ecology’s Decision
In the SMP amendment, the City is proposing to establish a new use, “private beach park use and structures,” that will be listed as a conditional use in all shoreline environments. As shown in the Lakeside Recreation Lot Impact Analysis, the need for this is to address previously unanticipated recreational activities at undersized lots along Lake Sammamish. The record reflects that these activities are beginning to create impacts to Lake Sammamish. By defining this use, the City will be able to more consistently review and condition development applications associated with this use. The City proposes to list “private beach park use and structures” as a conditional use and establish use standards for this use in SMC 25.07.130, a new section of the SMP. These standards have been designed to ensure no net loss of ecological function results from private beach park use. They include a requirement that all structures be located to avoid the need for future shoreline stabilization, all non-water-dependent structures adhere to the established shoreline setback, overwater structures adhere to established standards for overwater structures, and that for any development proposal, a site access plan, site management plan, and a vegetation plan be submitted. The proposed amendment would allow existing beach park uses to be considered conforming, but any expansion would require compliance with these standards.

Finding: Ecology finds that there are many legally-established lots along the Lake Sammamish shoreline that are too small for residential use and that many owners are using these lots for private recreation. Ecology also finds that these existing and ongoing recreational activities were unanticipated by the Sammamish SMP and are beginning to create impacts to the shoreline environment. Ecology finds that the proposed amendment addresses these impacts and is consistent with the SMA and SMP Guidelines.
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 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 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 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 the procedural requirements have been satisfied, in regards to state 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 amendments 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.