

ATTACHMENT A: FINDINGS AND CONCLUSIONS
CITY OF SEDRO-WOOLLEY SHORELINE MASTER PROGRAM PERIODIC REVIEW AMENDMENT

SMP Submittal accepted June 16, 2021, Ordinance No. 1983-21
Prepared by Department of Ecology on December 27, 2021

Use of this Document

Ecology's *Findings and Conclusions* (presented herein Attachment A) provides the factual basis for the Department of Ecology's (Ecology) decision on the City of Sedro-Woolley's (City) proposed amendment to their Shoreline Master Program (SMP) as a result of their SMP periodic review. This document is divided into three sections: Findings of Fact, which provides findings related to the City's proposed amendment, amendment history, and the review process, Conclusions of Law, and Ecology's Decision and Effective Date of the amendment.

Brief Description of Proposed Amendment

The City of Sedro-Woolley is undergoing a statutorily required periodic review of their SMP and has submitted an amendment to Ecology for review and approval. The City opted to use the standard review process in WAC 173-26-100 for this periodic review and associated amendment.

FINDINGS OF FACT

Need for amendment

The City of Sedro-Woolley completed a comprehensive update to their SMP in 2016. 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).

The amendment will bring the City's SMP into compliance with requirements of the Shoreline Management 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 revisions deemed necessary to reflect changed circumstances, new information, or improved data.

SMP provisions to be changed by the amendment as proposed

The SMP regulates shoreline uses and development along approximately 1,400 linear feet of the Skagit River totaling approximately 44.75 acres of shoreline jurisdiction. The SMP is adopted by reference into the Sedro-Woolley Municipal Code (SWMC) in Chapter 17.96 and is titled the "City of Sedro-Woolly Shoreline Master Program".

The City prepared a checklist and an analysis documenting the proposed amendment. The City of Sedro-Woolley's SMP is a standalone document containing goals, policies and regulations. The Official Shoreline Designation Map is located in Chapter 4 – Shoreline Environmental Designations of the SMP. Critical area policies and regulations are located into Chapter 5 of the SMP and within SMP Appendix C.

The following SMP sections are proposed to be amended:

Chapter 2 – Definitions

The definition for "substantial development" is amended within subsection (g) reflecting updated cost thresholds and building requirements for freshwater docks.

Chapter 6 - Administrative Provisions

(B)(1)(a)(i)The City amended the cost threshold for substantial developments listed under Shoreline Substantial Development Permits to reflect the new inflation adjusted amount of \$7,046, previously \$6,416. (B)(2) Additionally, an amendment to the “effective date of Substantial Development Permit” replaced the date of “receipt” with date of “filing.”

Appendix C - Shoreline Critical Areas Regulations

A wetland buffer table and a wetland impacts table were added to this section of the SMP along with additional clarification guiding implementation of these critical areas regulations within shoreline jurisdiction.

Amendment History, Review Process

Local SMP Amendment 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 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 comprehensively updated, 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).

Due to the COVID-19 pandemic, the City’s public meetings were held by teleconference. The Planning Commission had meetings addressing this topic, beginning January 19, 2021 and continuing through March 16, 2021. A public hearing was held February 16, 2021 and a second on March 16, 2021. Notice of the hearing was published in the Skagit Valley Herald on February 2, 2021 and March 2, 2021.

The record indicates the City completed a SEPA checklist and issued a Determination of Non-Significance (DNS) on March 31, 2021 for the proposed SMP amendment, with no appeals filed prior to the close of the appeal period on April 14, 2021. Ecology did not comment on the DNS. The City provided a *Notice of Intent* to adopt to the WA State Department of Commerce on March 11, 2021. The 60-day notice period ended on May 10, 2021.

With passage of Ordinance No. 1983-21 on June 2, 2021, the City authorized staff to forward the proposed amendment to Ecology for formal review.

Ecology SMP Amendment Review and Approval Process

As part of this SMP period review, the City chose to utilize the standard review process set forth in WAC 173-26-100. After the City completed the SMP periodic review process and locally adopted the

¹ https://www.ci.sedro-woolley.wa.us/departments/planning/shoreline_master_plan.php

associated SMP amendment, the City submitted the amendment and its adoption record to Ecology for final agency approval as outlined in WAC 173-26-110.

The proposed SMP amendment was received by Ecology for state review on May 28, 2021. Additional information was provided on June 14, 2021 and the amendment package was verified as complete on June 16, 2021.

When the local government opts to use the standard process of WAC 173-26-100, Ecology must follow the procedures of WAC 173-26-120(2) to provide reasonable notice and opportunity for written comment. Notice of the state comment period was distributed via email to state and local interested parties identified by the City on July 13, 2021, in compliance with the requirements of WAC 173-26-120. Ecology sent invitations to comment and consult Government to Government, as necessary, to local tribal governments including, the Samish Indian Nation, Sauk-Suiattle Indian Tribe, Swinomish Indian Tribe, and the Upper Skagit Indian Tribe. The state comment period began on July 26, 2021 and continued through August 26, 2021.

Notice of the comment period, including a description of the proposed amendments and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views was provided on Ecology's [website](#)² and as part of the written notice.

No comments were submitted to Ecology on the City's SMP periodic review and proposed amendment during this state comment period.

Consistent with WAC 173-26-120(3)(a)(iii) the *State process for approving/amending shoreline master programs*, Ecology must either approve the proposal as submitted, recommend specific changes necessary to make the proposal consistent with the SMA or guidelines (WAC 173-26), or deny the proposal if no alternation of the proposal appear likely to be consistent with the SMA.

Consistency Review

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 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) March 31, 2021 for the proposed SMP amendments.

² <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Sedro-Woolley>

Other Studies or Analyses supporting the SMP amendment

Ecology also reviewed documents prepared by or for the City in support of the SMP amendment. These documents include the public participation plan, the periodic review checklist, and staff reports.

CONCLUSIONS OF LAW

After review of the complete record submitted, 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 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 173-26-100 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 173-26-100, and WAC 173-26-110.

Ecology concludes that the state's procedural requirements for review and approval of shoreline master program amendments have been met as set forth in RCW 90.58.090, WAC 173-26-100, 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 amendments are consistent with the policy and procedural requirements of the Shoreline Management Act 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.