

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

SMP Submittal accepted July 8, 2021, Resolution No. 2021-04
Prepared by Department of Ecology on August 24, 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 Winlock'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 Winlock 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

Winlock comprehensively updated their master program in April 2017. 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 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 City prepared a checklist and an analysis documenting the proposed amendment. Winlock's SMP is a standalone document containing goals, policies and regulations. The Official Shoreline Designation Map is located in Appendix 1. Critical area regulations are located in SMP Appendix 2.

The SMP goals and policies are considered an element of the City's Comprehensive Plan. All other portions of the SMP are part of the City's development regulations. The SMP regulates shoreline uses and development along segments of Olequa Creek and King Creek. The SMP is adopted by reference into the Winlock Municipal Code (WMC) in Chapter 16.10 Shoreline Master Program.

The following SMP sections are proposed to be amended:

Chapter 1. Introduction

1.05 Applicability. A new provision lists those developments not required to obtain shoreline permits or local reviews. [E]

Chapter 4. General Policies & Regulations

4.04 Critical Areas and Shoreline Vegetation Conservation. A citation to the City's Critical Areas Ordinance in the Winlock Municipal Code (WMC) and the adoption by reference is removed since the SMP critical area regulations are located in Appendix 2. [4.04.02.A.2]

A provision is added allowing for credits from a certified mitigation bank to be used to compensate for unavoidable impacts. [4.04.02.A.6]

Chapter 6. Shoreline Modification Policies and Regulations

6.01.01 Shoreline Modification Table. A footnote reference is corrected in Table 6-1.

Chapter 8. Definitions

The following definitions are revised: development, substantial development.

Related amendments:

The following revisions are occurring in the Winlock Municipal Code (WMC):

WMC Chapter 15.25 Flood Damage Prevention – Revisions to Section 15.25.040 add shoreline conditional use and variance permits and clarify that issuance of any shoreline permit would be required in addition to the flood hazard zone permit when development and structures are located in the flood hazard zone and are within shoreline jurisdiction.

WMC Chapter 18.20 Shoreline Management – This entire chapter is being deleted, having been replaced by WMC 16.10.

WMC Chapter 18.25 Hearing Examiner – The definitions for “master project application” and “project permit” are revised to include shoreline conditional use permits and shoreline variance permits.

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 hired a consultant who developed draft documents.

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). The City consulted with

¹ <https://www.cityofwinlock.com/community-development.html>

Ecology and solicited comments throughout the review process including opportunities to comment on draft materials in January, April and May 2021.

Due to the COVID-19 pandemic, the City's public meetings were held by teleconference. The Planning Commission had meetings addressing this topic, beginning February 1, 2020 and continuing through May 3, 2021. A public open house was held February 1, 2021 and a public hearing was held May 3, 2021². Notice of the hearing was published in the Lewis County News on April 21 and 28, 2021.

The record indicates the City completed a SEPA checklist and issued a Determination of Non-Significance (DNS) on March 17, 2021 for the proposed SMP amendment. Ecology did not comment on the DNS. Department of Commerce was notified of the City's intent to adopt on March 17, 2021.

With passage of Resolution No. 2021-04 on June 14, 2021, the City authorized staff to forward the proposed amendments to Ecology for formal review.

Ecology SMP Amendment Review and Approval Process

As part of this 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 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 amendments were received by Ecology for state review and verified as complete on July 8, 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 15, 2021, in compliance with the requirements of WAC 173-26-120. The Chehalis, Cowlitz, Nisqually and Quinault tribes were individually notified and invited to comment. The state comment period began on July 19, 2021 and continued through August 18, 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](#)³ and as part of the written notice.

Ecology received one comment letter from Washington Department of Fish and Wildlife which explicitly stated they had no comments on the proposed SMP amendment. They did, however, want to call attention to their recently completed update to their Priority Habitats and Species publication on riparian ecosystems and look forward to working with the City in the future. This comment did not request or warrant modifications to the SMP.

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

² The City intended to use the joint review process. However, due to miscommunication, the City began their process without Ecology. It was decided at that point to utilize the standard process rather than back up and restart.

³ <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Winlock>

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. Ecology finds the amendment proposal, as submitted, consistent with the policy and standards of the SMA and implementing guidelines.

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 17, 2021 for the proposed SMP amendments.

Other Studies or Analyses supporting the SMP amendment

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

CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes that the City 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 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 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, 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 and all comments received, Ecology has determined that the City's proposed amendments are 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.