

**ATTACHMENT A: FINDINGS AND CONCLUSIONS  
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF EVERSON  
SHORELINE MASTER PROGRAM**

SMP Submittal accepted September 23, 2016, Resolution No.543-15

**Brief Description of Proposed Amendment:**

The City of Everson (City) has submitted to the Department of Ecology (Ecology) for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as local ordinances # 769-16 – Protection of Natural Resources and 752-15 – Flood Insurance Program, adopted by reference as part of the SMP. Additional reports and supporting information and analyses noted below, are included in the submittal.

**FINDINGS OF FACT**

**Need for amendment.** The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City’s local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The City’s original SMP was approved by Ecology in 1976 and has not been amended since that time. This SMP update is also needed to address land use changes that have occurred along the City’s shorelines over the past 40 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the City’s Comprehensive Plan, and regulations associated with protection of critical areas and flood management.

**SMP provisions to be changed by the amendment as proposed.** This comprehensive SMP update is intended to entirely replace the City’s existing SMP.

**Amendment History, Review Process:** The city indicates the proposed SMP amendments originated from a local planning process that began in 2000. Prior to completion of the amendment, Ecology updated its SMP amendment procedures and guidelines and the City re-started its amendment process following the new guidelines in 2005/2006. The record shows that an initial notice that the update process was underway was mailed to the public, local, state and federal agencies, tribes and other interested parties on January 17, 2001. The City also solicited input on its shoreline inventory and characterization process on July 10, 2002 and again on April 7, 2006. A 60-day public comment period on the city’s draft SMP started on September 13, 2006 and a public hearing was held by the Everson Planning Agency on October 19, 2006. The city held a public hearing before the City Council on a revised draft SMP on April 28, 2015. With passage of Resolution 543-15, on September 22, 2015, the City Council authorized its staff to forward the proposed amendments to Ecology for review.

Pursuant to WAC 173-26-110, the City of Everson has satisfied the submittal requirements for a comprehensive SMP update as indicated below:

- A signed resolution was provided to Ecology that indicated the City’s intent to adopt through Resolution No. 543-15, signed on September 22, 2015. (WAC 173-26-110(1));
- Amended environment designation maps were submitted to Ecology (WAC 173-26-110(3));
- Materials summarizing the update process was provided to Ecology (WAC 173-26-110(4));
- Evidence of compliance with the State Environmental Policy Act (SEPA) was provided to Ecology including a Determination of Non-significance issued by the City on September 1, 2015 along with a completed Environmental Checklist dated August 28, 2015. (WAC 173-26-110(5));
- Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100 was provided to Ecology (WAC 173-26-110(6));
- The City provided copies of public comments received from the Washington Department of Fish and Wildlife (WDFW) during the local approval process. (WAC 173-26-110(7));
- A copy of the completed SMP submittal checklist was provided to Ecology (WAC 173-26-110(8));
- Copies of the shoreline inventory and characterization report, cumulative impacts analysis, and restoration plan were submitted to Ecology (WAC 173-26-110).

The proposed SMP amendments were received by Ecology for state review and verified as complete on November 1, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on December 22, 2016 in compliance with the requirements of WAC 173-26-120. The state comment period began on January 3, 2017 and continued through February 2, 2017. Comments were received from the Washington Department of Archaeology and Historic Preservation (DAHP) and Washington Department of Natural Resources (WDNR). Ecology sent the written comments it received to the City on February 7, 2017. On March 6, 2017, the City submitted to Ecology its responses to issues raised during the state comment period. These responses, along with Ecology’s own responses to issues raised during the comment period, are included in Attachment D.

**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 Submittal 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) for the proposed SMP amendments. Ecology did not comment on the DNS.

**Other Studies or Analyses supporting the SMP update:** Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

- Shoreline Inventory and Characterization Reports:
  - March 8, 2001 Shorelands Inventory (Welch)
  - August 25, 2002 Shoreline Inventory of the Nooksack River Shoreline (Earth Systems Science, Inc.)
  - October 29, 2002 Supplemental Shoreline Analysis (Sehome Planning & Development Services)
  - August 10, 2006 Shoreline Inventory and Analysis Report (Sehome Planning & Development Services,
- December 2006 Restoration Plan,
- December 2006 Public Access Plan, and
- December 2006 Cumulative Impacts Analysis.

### **Summary of Issues Raised During The Public Review Process:**

The Department of Archaeology and Historic Preservation (DAHP) provided comments during Ecology's public comment period suggesting changes to the policies and regulations of the SMP dealing with cultural and historic resources. As a result of the DAHP comments, the City made changes to select provisions and requested that Ecology incorporate the changes in our review.

The Department of Natural Resources (WDNR) provided an advisory comment that the Nooksack River within the City of Everson are state-owned aquatic lands and subject to review by WDNR.

The public and agency comments, along with the City and Ecology responses are included in Attachment D.

### **Summary of Issues Identified by Ecology as Relevant To Its Decision:**

Ecology's required changes are limited to relatively minor procedural corrections to the City's SMP. Changes were also required to update regulations pertaining to the protection of wetlands in order to be consistent with the most current, scientific information available on this topic.

### **CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed comprehensive SMP update/amendment, subject to and including Ecology's required changes (itemized in Attachment B), 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). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the

guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology's approved SMP amendments.

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 City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, 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's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist. Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas regulations. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

## **DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.