

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

SMP Submittal accepted February 18, 2016, Ordinance No. 2015-1500  
Prepared by Lennard Jordan September, 2016

**Brief Description of Proposed Amendment:**

The City of Chelan has submitted to 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, and administrative provisions. 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 original city SMP was approved by Ecology in 1975 and has never been comprehensively updated. This SMP update is also needed to address land use changes that have occurred along the city's shorelines over the past 41 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 Critical Areas Ordinance, Zoning Ordinance, and Comprehensive Plan.

**SMP provisions to be changed by the amendment as proposed:** This comprehensive SMP update is intended to entirely replace the city's existing SMP. This updated SMP will manage Lake Chelan and the Chelan River within the city limits. The update SMP is a significant upgrade of the 1975 SMP. Since 1975, much has changed along Lake Chelan's shorelines, including development pressures, state laws and guidance, and knowledge of best development and conservation practices.

The following elements outline the key differences between the county's proposed SMP and the existing 1974 SMP:

*Environment Designations*

The City of Chelan's existing SMP has four environment designations: Urban, Rural, Conservancy, and Natural Environments. The proposed SMP has five updated environment designations including, Shoreline Park/Public, Shoreline Residential – Single Family, Shoreline Residential – Multi-family, High Intensity, and Aquatic Environments. The proposed SMP environment designations include a purpose statement, designation criteria, and management policies for each shoreline environment. In addition, the new shoreline environments are more descriptive, tailored to the City of Chelan's unique shorelines, and meet current state SMP guidelines.

*Shoreline Uses and Modifications Matrix*

The existing SMP does not distinguish between water-oriented and non-water-oriented uses and does not provide a shoreline use and modification matrix. The new SMP distinguishes between water-

oriented and non-water-oriented uses and includes a shoreline use and modification matrix that outlines categories and subcategories of uses and modifications and identifies whether they are permitted, conditionally allowed, or prohibited uses. The shoreline use and modification matrix and the accompanying text of the proposed SMP contain detailed policies and regulations with more direction and detail for regulating specific types of uses.

#### *Critical Areas*

The new SMP provides regulations to protect critical areas including critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands. The critical area regulations will provide a level of protection to critical areas in shorelines that assures no net loss of shoreline ecological functions.

#### *Development Standards Matrix*

The existing SMP does not include a development standards matrix. The proposed SMP includes a development standards matrix with height limits, minimum shoreline lot frontages, and minimum structure setbacks from side property lines.

**Amendment History, Review Process:** The City of Chelan entered into an interlocal agreement for regional planning with Chelan County on February 29, 2008. On June 14, 2012, the City Council approved a grant agreement with the Department of Ecology to conduct a local SMP development process. During the regional and local SMP update process, the city conducted approximately 18 public meetings and relied on recommendations provided by the Planning Commission. The Planning Commission conducted three joint meetings with the City Council in October 27, 2010, September 19, 2012, and January 23, 2013. The Planning Commission made recommendations on December 12, 2012 and reviewed them with the City Council on January 23, 2013. The city used the grant from the Department of Ecology to hire a consultant team comprised of BERK and The Watershed Company to assist with their SMP update.

The local SMP adoption process culminated with a public hearing before the City Council on May 28, 2015. The City Council adopted the finding and recommendations of the Planning Commission that the City Council adopt the proposed Shoreline Master Program. With passage of Ordinance No. 2015-1500, on November 24, 2015, the city authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on March 16, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the city on April 21, 2016, in compliance with the requirements of WAC 173-26-120. The state comment period began on April 27, 2016, and continued through May 31, 2016.

Ecology received five written comments from agencies and individuals that addressed multiple comments. Ecology prepared a summary of public comments and sent it to the City of Chelan on June 7, 2016. The city provided responses as to how the proposed SMP address each of the issues raised and is consistent with RCW 90.58.020. In response to many comments, the city proposed alternative language to reflect the comment. Ecology's own responses to issues raised during the comment period are reflected in Attachment B - Required changes, Attachment C - Recommended changes, and this document.

**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 SMP amendment, including the policies, regulations, and environmental designations, 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 and submitted to Ecology.

**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 on May 20, 2015. 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:

These supporting documents include:

- *Public Access Plan,*
- *Environmental Designation Maps*
- *Shoreline Inventory and Analysis Report*
- *Cumulative Impacts Analysis,*
- *No Net Loss Report, and*
- *Shoreline critical areas regulations*
- *Restoration Plan*
- *Response to public comments summary*

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

The city’s SMP amendment public review process generated comments from five groups. Comments were focused on cultural resources, public access, and offered specific wording suggestions

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

Most of Ecology’s required changes address correcting internal referencing errors.

A number of Ecology’s recommended changes are based on comments received during the state’s public comment period. In the city’s response to comments received by Ecology, the city proposed many changes to the cultural resource protection regulations. Ecology incorporated the city’s proposed changes into Attachment C – Recommended changes so that the city may accept the recommendations and incorporate those changes into the SMP. Other recommended changes from Ecology are editorial and help to clarify language.

**CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the city 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 those SMP segments relating to shorelines of statewide significance 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 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 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's comprehensive SMP update/amendment 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 ordinance. 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 alternatives is effective 14 days from Ecology's final action approving the alternatives.