

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

SMP Submittal accepted March 12, 2015, Ordinance No.2014-020
Prepared by Jaime Short on August 5, 2015

Brief Description of Proposed Amendment:

The City of Spokane Valley has submitted 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 when the Valley was still part of unincorporated Spokane County. When Spokane Valley incorporated in 2003, it adopted the County's existing SMP. The SMP has never been comprehensively updated. This SMP update is also needed 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 and Comprehensive Plan. 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 the fall of 2009. The record shows that the City formed a Citizens Advisory Group that met 7 times between January and June of 2011. All meetings were open to the public. The Planning Commission met 29 times to consider and evaluate the SMP between October 2009 and October 2014. The record shows that 5 public meetings and open houses were held between November 2009 and January 2013.

The Planning Commission held a hearing on October 9, 2014. Affidavits of publication provided by the City indicate notice of the hearing was published on September 19 and 26, 2014, in the *Spokane Valley News Herald*.

Between the fall of 2009 and the fall of 2014, the City Council met 33 times to consider and evaluate the SMP. A hearing was held on November 17, 2014. Affidavits of publication provided by the City indicate notice of the hearing was published on October 31 and November 14, 2014, in the *Spokane Valley News Herald*.

With passage of Ordinance #14-020, on December 9, 2014, 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 12, 2015. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on April 3, 2015, in compliance with the requirements of WAC 173-26-120. The state comment period began on April 20 and continued through May 20, 2015. Two organizations submitted comments on the proposed amendments after the close of the public comment period. Ecology sent the written comments it received to the City on May 27. On July 13, the City submitted to Ecology its responses to issues raised during the state comment period. After a thorough evaluation of the issues raised, the City determined while one minor discrepancy was noted, no substantive changes to the SMP were necessary (see Attachment B). Ecology agrees with the City's determination.

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 on November 3, 2014. According to the affidavit of publication, notice of the SEPA determination was published in the *Spokane Valley News Herald* on November 7, 2014. 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:

- *a October 27, 2009 public involvement plan,*
- *a September 7, 2010 shoreline inventory and characterization,*
- *a December 11, 2012 restoration plan,*
- *a March 12, 2013 public access plan*
- *a May 31, 2013 No Net Loss report,*
- *and a September 26, 2014 cumulative impacts analysis.*

Summary of Issues Raised During The Public Review Process:

Over the course of the City's SMP update, there were concerns raised about new docks along the Spokane River. At one time, a developer had proposed to install approximately 20 docks in an area that previously had none. The area has high recreational and ecological value and various parties were concerned about the cumulative effect those docks would have over time to navigation and habitat. After lengthy debate, the City settled on an approach that will require extensive study of each site – both the upland and in-water conditions – in order to demonstrate that a new dock will not result in a loss of ecological function nor impede normal public use of the water. This tailored approach meets

the requirement in law to optimally implement the SMA on the Spokane River while maintaining a level of flexibility the City desired to address local conditions.

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

Two editorial issues were identified during the development of this findings document that do not affect the implementation of the SMP but should be noted. There is a small section under the Wetlands provisions, Chapter 21.50.520(C)(1) SVMC, that is an artifact of the original Critical Area regulations which were incorporated into an earlier draft of the SMP. The bulleted list of exceptions applies to a section that is no longer part of this program and therefore will not affect the implementation of sound wetland buffer provisions. The City will include an administrative note in their file that makes it clear to all staff that the section in question is immaterial. Given the irrelevance of this specific section, a required change to the program to ensure consistency with RCW 50.58 and WAC 173-26 is not necessary.

The second issue is a misquote of RCW 90.58.030(3)(e)(vii). The final draft of the SMP was generated while changes from the 2014 legislative session were still being codified. There was a misunderstanding that the threshold for new dock exemptions had risen from ten thousand to twenty thousand dollars. Instead, the change to the RCW raised the monetary threshold for *replacement* docks to twenty thousand dollars, but left the threshold for *new* docks at ten thousand dollars. The City is aware of the error and has already implemented the correct language on a new dock application processed under their current SMP. Given that these legislative changes are made from time to time and WAC 173-27-140 requires permits be implemented consistent with RCW 90.58, this minor error is editorial in nature and does not affect the accurate implementation of the City's SMP. Therefore, no change is required.

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 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 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 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 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. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment