

**City of Spokane SMP Update
Attachment B:**

Required changes to the submitted City of Spokane Shoreline Master Program, for achieving consistency 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).

1) Page 11 -- **17E.060.060A.3 Shoreline Regulations - Shoreline Buffer Map Latah (Hangman Creek):** Amend as follows to comply with RCW 90.58.020, RCW 90.58.100(1)(a),(b),(c),(d),(e), WAC 173-26-201(2)(a),(c),(d)(i),(iv),(f), (3)(c); WAC 173-221(2)(c)(iv)(A),(B),(C)(IV), (3)(a),(b),(c); WAC 173-231(3); and SMP 6.1 through 6.4, General Goals and Policies, Flood Hazard Management: Change the buffer from 100 feet to 200 feet along the right bank (east bank) of Latah (Hangman) Creek immediately north of the intersection of the Cheney-Spokane Road with State Route 195, to prevent impinging on the Channel Migration Zone of Latah (Hangman) Creek as identified in the lower Hangman Creek Flood Hazard Management Plan and confirmed by the Department of Ecology in February 2009.

This change is necessary to bring the Spokane SMP into compliance with the provisions in law and rule cited above. The SMP recommended and forwarded to the City Council by the Spokane Plan Commission reflected good technical analysis of the location of the channel migration zone, characterization of ecological function of the subject shoreline of Hangman (Latah) Creek, and constituted an integrated application of the goals, policies and basic concepts in the SMA and SMP Guidelines. This recommendation was overruled at the end of the local adoption process by the City Council at the request of the property owner, whose request was not supported by persuasive new technical or scientific evidence. The Mayor vetoed the change made by City Council, which subsequently overruled the Mayor's veto. Moreover, a detailed analysis of the channel migration zone of Hangman (Latah) Creek at the subject property and a number of adjacent reaches, conducted by the Department of Ecology, corroborates the original analysis, and supports the recommendation of the City Plan Commission.

2) Page 48 – **17E.060.400 Shoreline Stabilization:** Amend as follows to achieve compliance with RCW 90.58.020 and WAC 173-26-231(3)(a)(i),(ii),(iii):

“5. New erosion control measures, including replacement structures, shall minimize not result in adverse impacts to natural stream and river processes including sediment conveyance systems transport.”

This change is necessary to prevent net loss of ecological functions in Hangman (Latah) Creek and the Spokane River, since shoreline ecological functions are dependent on ecosystem wide and localized, reach level physical processes including hydrology, flows and associated sediment transport through the stream system.

3) Page 51 – **17E.060.420 Dredging and Dredge Material Disposal:** Amend as follows to achieve compliance with WAC 173-26-231(3)(f):

~~G. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins shall be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.~~

~~H. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.~~

While this language was taken from the SMP Guidelines at WAC 173-26-231(3)(f), it is intended to address existing navigation in marine and freshwater lake and reservoir settings such as marinas. Neither the Spokane River or Hangman (Latah) Creek support the types of navigation requiring maintenance dredging. Spokane's shorelines of statewide significance instead support shallow draft recreational watercraft such as canoes, kayaks, rafts and drift boats.

4) Pages 58 and 59 – **17E.060.540 In-Stream Structures:** Amend as follows to achieve consistency and optimally implement statewide policy enunciated in RCW 90.58.020, RCW 90.58.090(4), RCW 90.58.100(2)(c), WAC 173-26-186(8), WAC 173-26-221(2)(c)(iv). These changes are necessary to make clear that the standard for protecting ecological functions in shorelines of statewide significance includes all aquatic life including fish and terrestrial wildlife, in addition to priority species called out in the Wildlife Code and Critical Areas as required by the Growth Management Act. They are also required to clarify the critical importance of preserving and restoring natural stream and river channel form and processes, which support shoreline ecological functions:

"A. Uses that adversely impact the ecological functions of freshwater habitats shall not be allowed except where necessary to achieve the prioritized objectives of RCW 90.58.020, and then only when their impacts are fully mitigated to achieve no net loss of ecological function, pursuant to SMP 17E.060.220.

B. Proposed in-stream structures and associated facilities shall be ~~analyzed~~ evaluated for their ability to assure that they protect and preserve ecosystem-wide processes, shoreline ecological functions, natural channel morphology, sediment transport and flows, normal public use and public access and cultural resources, including but not limited to:

1. Aquatic life ~~Fish~~ and fish passage;
2. ~~Wildlife and water resources~~;

3. Shorelands and natural vegetation;
4. Critical Areas;
- ~~5.~~ 4. Natural channel hydrogeological and fluvial processes including flows, channel morphology and sediment transport; and
- ~~6.~~ 5. Natural character and scenic vistas.
7. Existing public access and recreational uses.

C. Proposed in-stream projects shall be assessed ~~analyzed~~ for impacts to:

1. Watershed functions and processes; and
2. Ecological functions in the shoreline reach, including aquatic and shoreland vegetation, wildlife, the channels of the Spokane River and Hangman (Latah) Creek, and their aquatic life; and
- ~~2~~3. Priority habitats and species.

D. All in-stream structures shall be located and designed to:

1. Avoid if possible, or if unavoidable, minimize and fully mitigate interference with surface navigation and the public's use of surface water or shoreline areas;
2. Avoid if possible, or if not possible minimize and fully mitigate ~~Consider~~ impacts to public views;
3. Avoid if possible, or minimize and fully mitigate unavoidable impacts to aquatic life including aquatic shellfish, insects and other macroinvertebrates, fish, amphibians and reptiles and their in-stream habitats; birds and mammals which are dependent on aquatic, riparian and associated upland environments, and A allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration;"
4. Preserve natural channel morphology, and river processes including sediment transport and flows.

E. In-stream structures shall not be permitted unless minimized, unavoidable impacts to shoreline resources and ecological functions are demonstrated as feasibly possible to be fully mitigated.

F. In-stream structures shall only be permitted after approval of a comprehensive mitigation plan, which shall include:

i) Specific location(s) of all mitigating measures, with a detailed analysis demonstrating how the mitigation site is currently degraded, and how rehabilitation measures will mitigate specific impacts at the instream structure site;

(ii) Specific mitigating measures and contingency plans for long term viability of mitigating measures;

(iii) Bonding measures or other financial assurance guaranteeing full completion and long term maintenance of mitigating measures;

(iv) Any other measures deemed necessary by the city or Department of Ecology to adequately mitigate adverse impacts to shoreline resources, natural character, and ecological function, and to assure long term effectiveness and persistence of mitigating measures.

5) Page 59 – **17E.060.560 Recreational Development:**

Amend definition of Recreational Development to include prominent reasonably foreseeable developments, as set forth in WAC 173-26-186(8)(d), and WAC 173-26-201(3)(c)(i), as follows:

“Definition: Shoreline recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Water-enjoyment recreational uses include river or stream swimming areas, whitewater structures, boat launch ramps, fishing areas, boat or other watercraft rentals, and view platforms.”

6) Page 71 – **Table 17E060.3 Shoreline Modifications:**

Amend the table as follows to achieve consistency with the city’s updated Shoreline Environment Designations Criteria and Management Policies, and to achieve consistency with the statewide policies and prioritized preferred uses in shorelines of statewide significance set forth in RCW 90.58.020, and with the requirements of WAC 173-26-186(8), WAC 173-26-231(2) General Principles Applicable to All Shoreline Modifications, (3)(b) Piers and Docks, (3)(d) Breakwaters, jetties, groins and weirs:

Table 17E.060-3. Shoreline Modifications	
Modification is:	Shoreline Environments

P: Permitted (with shoreline substantial development permit or exemption) N: Not permitted L: Allowed, but special limitations CU: Conditional use review required	<i>NE</i>	<i>UCE</i>	<i>SRE</i>	<i>LUE</i>	<i>IUE</i>	<i>WTPE</i>
Shoreline Stabilization						
New or enlarged structure for new development or for land subdivision	N	N	N	N	N	N
New or enlarged structure for protection of existing structures	CU	CU	CU	CU	CU	CU
New or enlarged structure for support of new non-water-dependent development, including single-family residence	CU	CU	CU	CU	CU	CU
New or enlarged structure in support of water-dependent development	CU	CU	CU	CU	CU	CU
New or enlarged structure to protect projects for the restoration of ecological functions or hazardous substance remediation projects	CU	CU	CU	CU	CU	CU
Replace existing shoreline stabilization structure	CU	CU	CU	CU	CU	CU
Piers and Docks						
Single family residential pier or dock	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	N	N
A new pier or dock essential to the successful operation of a permitted water-dependent use	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU
A new pier or dock for public access	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU	L ^[1] /CU
Fill						
Waterward of the ordinary high-water mark	L ^[2] /CU N	L ^[2] /CU				
Waterward of the ordinary high-water mark for ecological restoration	L ^[3]	L ^[3]	L ^[3]	L ^[3]	L ^[3]	L ^[3]
Landward of the ordinary high-water mark	L ^[4] /CU	L ^[4] /CU	L ^[4] /CU	L ^[4] /CU	L ^[4] /CU	L ^[4] /CU
Jetties, Groins and Weirs						
Waterward of the ordinary high-water mark	L ^[5] /CU N	L ^[5] /CU				
Waterward of the ordinary high-water mark for ecological restoration	L ^[6]	L ^[6]	L ^[6]	L ^[6]	L ^[6]	L ^[6]
Dredging and Dredge Material Disposal						
Waterward of the ordinary high-water mark for the primary purpose of obtaining fill material for ecological restoration only	CU	CU	CU	CU	CU	CU
Periodic dredging for existing hydroelectric facilities	CU	CU	CU	CU	CU	CU
Disposal of dredge material within a channel migration zone	N	N	N	N	N	N
Shoreline Habitat and Natural Systems Enhancement Projects						
	P	P	P	P	P	P

7) Page 75 – Table **17E.060-4 Shoreline Primary Uses**: Amend as follows to achieve consistency with, and optimum implementation of the policies and priorities of RCW 90.58.020, RCW 90.58.090(4), WAC 173-26-181, WAC 173-26-186(8), and WAC 173-26-241(3)(g):

Boating Facilities						
Marinas	N	N	N	N	N	N
Launch ramps for small non-motorized water-craft	CU ⁽¹⁰⁾	CU	CU	CU	N	CU
Forest Practices						
Forest Practices	N	N	N	N	N	N
Industrial Development						
Water-dependent industrial uses	N	CU	N	CU	CU	N
Water-related industrial uses	N	CU	N	CU	CU	N
Non-water oriented industrial uses	N	L ⁽⁴⁾ /CU	N	L ⁽⁴⁾ /CU	L ⁽⁴⁾ /CU	N
High impact industrial uses	N	N	N	N	N	N
Institutional						
Water-dependent institutional	CU	CU	CU	CU	CU	N
Water-related institutional	CU	CU	CU	CU	CU	N
Water-enjoyment institutional	CU	CU	CU	CU	CU	CU
Non-water oriented institutional	L ⁽⁵⁾ /CU	N				
In-Stream Structures						
In-Stream Structures	CU N	CU	CU	CU	CU	CU
Mining						
Mining	N	N	N	N	N	N
Recreational Development						
Water-dependent recreation	CU ⁽¹⁰⁾	CU	CU	CU	CU	N
Water-related recreation	CU	CU	CU	CU	CU	N
Water-enjoyment recreation	CU	CU	CU	CU	CU	N
Non-water oriented recreation	N	CU	CU	CU	CU	N
Residential Development						
Single-family residences	CU	P	P	P	P	N
Two-family residences	N	P	P	P	P	N
Three-family residences	N	P	P	P	P	N
Multi-family residences (4 or more dwelling units)	N	CU	CU	CU	CU	N
Accessory dwelling unit (ADU)	CU	P	P	P	P	N
Detached accessory structures	CU	P	P	P	P	N
Group living	N	CU	CU	CU	CU	N
Subdivision						
All subdivisions (including Binding Site Plans)	L ⁽⁶⁾ /CU	CU	CU	CU	CU	N
Parking						
Commercial parking or parking facility as primary use	N	N	N	N	N	N
Parking, accessory to a permitted use	P	P	P	P	P	P
Transportation						

New streets or street expansions that are part of the City of Spokane designated Regional Arterial Network	L ^[7] /CU					
New local access streets or street expansions serving permitted shoreline uses	L ^[8] /CU	L ^[8]				
Pedestrian and bicycle linkages to existing or planned transportation networks	CU N	P	P	P	P	P
Maintenance roads, accessory to a permitted use	P	P	P	P	P	P
Railroads and Rail Corridors						
New rail lines	L ^[9] /CU					
Expansion of existing rail lines	P	P	P	P	P	P

8) Page 77 – **17E.060.700** Shoreline Limited Use Standards.

Add new item as follows: 10) Boating facilities, Recreational Development

This regulation applies to all parts of Table 17E.060-4 that have a note (10). Boating Facilities, and Recreational Development (as defined in Section **17E.060.560**) shall not include any fill, whitewater structures or other developments located below the ordinary high water mark.

The changes in 7) and 8) above are necessary to prevent uses and developments in some environments where replacing or mitigating lost shoreline resources and ecological functions are not possible, because the shoreline resources and ecological functions cannot be replaced or mitigated. Thus the requirement to achieve no net loss of ecological function in implementing the SMP would not be possible. The changes are also necessary to achieve consistency with the Shoreline Environment Criteria and Management Policies in Chapter 17E.060.640 and 17E.060.650 in the updated Spokane SMP.

9) Page 80 – **17E.060.720F**. Part II. Shoreline Development Standards: Amend as follows to assure compliance with RCW 90.58.020; RCW 90.58.100(1)(a),(b),(c),(d),(e); WAC 173-26-171; WAC 173-26-181; WAC 173-26-186(3),(8)(a),(b); WAC 173-26-201(3)(d)(vi); WAC 173-26-221(2)(a),(b),(c); WAC 173-26-21(5)(a),(b),(c); WAC 173-26-241(3)(i); WAC 173-26-251(1),(2),(3)(a),(b),(c),(d); and SMP 4.1 through 4.5, General Goals and Policies, Conservation (page 27): Delete 17E.060.720F.6: “~~Pervious and/or elevated pathways and trails not exceeding a width of 10 feet which generally run parallel to the shoreline when no feasible alternative exists outside of the shoreline buffer, and only when accompanied by a Habitat Management Plan as outline(d) in 17E.020.090.~~”

This change is necessary because construction of trail components in the Natural and Urban Conservancy Environments as described in the 17E.060.720F.6, including trails as much as 10 feet wide, would destroy shoreline plant communities and associated ecological function, which cannot be mitigated or compensated elsewhere in the

Spokane River shoreline area. Therefore, the requirement to achieve no net loss of ecological function could not be met with this provision.

Publicly owned trails are also subject to provisions of the Americans with Disabilities Act (ADA) and risk management to limit exposure to tort claims. In public parks and recreational facilities, this often results in extensive cut and fill, to achieve grade requirements and ongoing removal of hazard trees. So-called hazard trees are often snags which support many important ecological functions including raptor perches, cavity nesting and denning substrate for many birds and mammals, and ultimately recruiting into adjacent surface waters as critically important woody debris. The shorelines designated Natural and Urban Conservancy in the subject locally adopted Spokane SMP also are characterized by existing traditional trails which receive continual use by wildlife and human recreational users.

10) -- **17E.060.720F.9:** Amend as follows: “In-stream structures, as defined in chapter 17A.020 SMC, if part of an approved ~~watershed basin~~ stream or shoreline restoration project approved by the City or as an element of a water-dependent ~~or aquatic~~ use consistent with the specific shoreline environment. The in-stream structures or features shall be designed to avoid modifying flows and water quality in ways that may adversely affect critical areas and habitat conservation areas, or degrading or eliminating habitat for aquatic life, including but not limited to: aquatic macroinvertebrates, fish, amphibians and reptiles, and terrestrial wildlife for which streams and rivers are critical habitats.;”

This change is necessary to clarify the preferred use priorities, and standards for protecting ecological function in shorelines set forth in RCW 90.58.020 and WAC 173-26-186, and achieving optimum implementation of the SMA and its implementing rules as required in RCW 90.58.090.