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DEPARTMENT OF ECOLOGY

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DATE RECEIVED
OCT 21 2019
CITY OF ENUMCLAW

October 16, 2019

The Honorable Jan Molinaro
Enumclaw City Hall
1339 Griffin Avenue
Enumclaw, WA 98022

**Re: Final Ecology Approval of the City of Enumclaw Shoreline Master Program
Periodic Review Amendment**

Dear Mayor Molinaro:

The Department of Ecology (Ecology) is pleased to announce final approval of the Enumclaw Shoreline Master Program (SMP) amendment. Ecology finds the City of Enumclaw's (City) program consistent with the policy and procedural requirements of the Shoreline Management Act (RCW 90.58) and its implementing rules.

Ecology approves the City SMP amendment as submitted.

The enclosed Attachment A, Findings and Conclusions document, provides more information about our decision. This is Ecology's final action and there will be no further modifications to the proposal.

The amendments adopted by this action conclude the City's periodic review under RCW 90.58.080(4). Ecology's approval affirms the amendments are consistent with the applicable provisions of the SMA and its implementing rules, including periodic review requirements of WAC 173-26-090.

The SMP is effective 14 days from the date of this letter. This time period was established by the state legislature and is intended to provide lead time for the City to prepare to implement the new SMP.

Ecology is required to publish a newspaper notice that the City's SMP has received final approval. The publication of this notice, in the form of a legal ad, will begin a 60-day appeal period. We will provide a copy of the legal ad to the City for its records.



The Honorable Jan Molinaro

October 16, 2019

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If you have any questions, please contact our regional planner, Maria Sandercock, at maria.sandercock@ecy.wa.gov or 425-649-7106.

Sincerely,

A handwritten signature in dark ink, appearing to read "Maia D. Bellon", with a long horizontal flourish extending to the right.

Maia D. Bellon
Director

Enclosure

By Certified Mail [9489 0090 0027 6081 4496 97]

cc: Chris Pasinetti, City of Enumclaw
Joe Burcar, Ecology
Maria Sandercock, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED PERIODIC REVIEW OF ENUMCLAW
SHORELINE MASTER PROGRAM**

SMP Submittal accepted September 17, 2019, Ordinance No. 2665
Prepared by Department of Ecology on September 26, 2019

Brief Description of Proposed Amendment

The City of Enumclaw (City) has submitted Shoreline Master Program (SMP) amendments to Ecology for review to comply with periodic review requirements.

FINDINGS OF FACT

Need for amendment

The City's comprehensive update to their SMP went into effect in 2012. The proposed amendments are needed to comply with the statutory deadline for a periodic review of the City Shoreline Master Program pursuant to RCW 90.58.080(4).

SMP provisions to be changed by the amendment as proposed

The City prepared a checklist and a gap analysis that documents proposed amendments. The amendments bring the SMP into compliance with requirements of the 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 amendments deemed necessary to reflect changed circumstances, new information, or improved data.

The City proposes to make the following changes:

1. Changes necessary for compliance with requirements of the act or state rules based off of the periodic review checklist.
2. Changes to remain consistent with amended development regulations:
 - a. The current SMP incorporates the 2008 Critical Areas Ordinance (CAO) by reference. The City is creating a separate shoreline-specific set of critical areas regulations that are located in an appendix to the SMP. The City will no longer incorporate the CAO by reference.
3. City-identified changes necessary to reflect changed circumstances, new information, and improved data:
 - a. Clarification of requirements for vegetation removal.
 - b. Add reference to Department of Fish and Wildlife (WDFW) Water Crossing Design Guidelines.
 - c. Clarification of soft shoreline stabilization meaning.
 - d. Several new definitions and revised definitions.

Findings and Conclusions

Amendment History, Review 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.

The City used Ecology’s 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 last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i).

The City 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 Ecology and solicited comments throughout the review process.

The City held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on April 17, 2019 and continued through May 17, 2019. A public hearing before the Planning Commission was held on April 25, 2019.

The City provided notice to local parties, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). Affidavits of publication provided by the City indicate notice of the hearing was published on April 3, 2019 in the Enumclaw Courier Herald.

Ecology distributed notice of the joint comment period to state interested parties on April 12, 2019.

Three (3) comments were submitted on the proposed amendments. The City submitted to Ecology its responses to issues raised during the comment period on June 24, 2019. Two comment letters came from the Muckleshoot Indian Tribe Fisheries Division (MITFD). The City identified 21 separate comments within the two letters. The City made two text amendments in response to the comments – one to add a reference to the WDFW Stream Crossing Design Guidelines and one to add clarification on soft shoreline stabilization. The third comment letter came from J. Todd Scott, a Preservation Architect with King County. The City made one text amendment in response to this comment, which was to add “local” as a type of Register of Historic Places.

The proposed SMP amendments were received by Ecology on June 24, 2019 for initial state review and verified as complete on June 25, 2019.

Ecology concluded that portions of the proposal were not consistent with applicable laws and rules, and provided a written statement describing the specific areas of concern and changes necessary. Ecology identified five (5) required changes to the draft amendment necessary for consistency with the SMA and the implementing guidelines. Issues identified were related to critical areas incorporation, and critical areas regulations. Ecology also identified eight (8) recommended changes for improved implementation of the SMP.

City of Enumclaw – SMP Periodic Review

Findings and Conclusions

The City provided a response confirming that all required and recommended changes would be incorporated into the SMP amendment prior to local adoption.

With passage of Ordinance #2665, on September 9, 2019, the City authorized staff to forward the proposed amendments to Ecology for formal approval.

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 demonstrating that the SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2) were followed.

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 includes review for compliance with the SMP amendment criteria found in WAC 173-26-201(1)(c) along with review of the SMP Periodic Review Checklist 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 amendment

Ecology also reviewed supporting documents prepared for the City in support of the SMP amendment. These documents include a public participation plan, a periodic review checklist, and a gap analysis.

CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes that the City proposed amendments are 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(1)(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(1)(c)(iv)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-104 regarding public and agency involvement in the SMP review and amendment process, 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.

Findings and Conclusions

Ecology concludes that the City SMP submittal to Ecology was complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-104, and WAC 173-26-110.

Ecology concludes that it has complied with the procedural requirements for review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-104, 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

Based on the preceding, Ecology has determined the proposed amendments are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Ecology approval of the proposed amendments is effective 14 days from Ecology’s final action approving the amendment.