

# City of Poulsbo

*Planning & Economic Development*



## SHORELINE MASTER PROGRAM UPDATE STAFF REPORT AND RECOMMENDATION

**To:** Mayor Erickson and City Council  
**From:** Nikole Coleman, Senior Planner  
**Subject:** 2021 Shoreline Master Program Update  
**Date:** July 15, 2021

Planning Commission and Staff respectfully recommends approval of the Shoreline Master Program Update as set forth in Exhibits B-E to this staff report.

### **PROPOSED MOTION:**

**MOVE** to (approve) (approval with modifications) the 2021 Shoreline Master Program Update as identified in Exhibits B-E; and direct the Planning and Economic Development Director to prepare an adopting ordinance in support of this decision.

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## 1.0 Introduction

The Shoreline Management Act (SMA) was enacted in 1971 for the purpose of ensuring responsible shoreline use and development, environmental protection, and public access with the goal being “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” Under the SMA, cities and counties are required to prepare and adopt a Shoreline Master Program (SMP), which is used to jointly administer the SMA with the Washington State Department of Ecology (Ecology). This planning and regulatory document establishes goals, policies, and regulations to achieve three general goals of the Act:

- Encourage reasonable and appropriate utilization and development of shorelines with an emphasis on water-dependent and related uses that control pollution and prevent damage to the natural environment.
- Protect and restore the ecological function and natural character of Washington shorelines, including the land, vegetation, wildlife, and shoreline environment.
- Promote public access and provide recreational opportunities for the public to enjoy the physical and aesthetic qualities of the natural shorelines.

The SMA requires that the SMP be reviewed and revised, if needed, on an eight-year schedule established by the Legislature. The periodic review ensures the SMP stays current with changes in laws and rules, remains consistent with other city plans and development regulations, and is responsive to changed circumstances, new information, and improved data. The update process follows the rules established by Ecology.

This periodic review did not re-evaluate the ecological baseline that was established as part of the 2012 SMP update, extensively assess no net loss criteria other than to ensure that proposed amendments do not result in degradation of the baseline condition, or change shoreline jurisdiction, environment designations, or shoreline buffers for private shoreline property owners.

The last SMP update, in 2012, was a lengthy and intensive comprehensive update that resulted in a complete overhaul of the SMP, while the scope of this periodic review is narrower and designed to ensure the SMP stays current and adaptable. The City was awarded a grant from the state of \$17,000 to complete this planning process by June 30, 2021 (note: due to the covid-19 pandemic and staff workload, the delivery of the final amended SMP to the Department of Ecology has been delayed until July 2021.)

## 2.0 Shoreline Master Program Documents

The following documents are considered part of the Poulsbo Shoreline Master Program and are under review with this update:

- Poulsbo Municipal Code Chapter 16.08, Shoreline Master Program (Exhibit B),
- Poulsbo Municipal Code Chapter 16.09, Shoreline Administration and Procedures (Exhibit C),
- Comprehensive Plan Chapter 5, Natural Environment (Exhibit D), and
- Official Shoreline Maps (Exhibit E).

In addition, WAC 173-26 requires the City to prepare several supporting documents upon which the SMP is based.

- Inventory and Characterization (available upon request),
- Restoration Plan (available upon request), and
- Cumulative Impacts Analysis and No Net Loss Report (available upon request),.

Staff and Planning Commission are not proposing any updates to the Inventory and Characterization. Grette Associates, the City’s Shoreline/Environmental Consultant, conducted a review of the Restoration Plan and Cumulative Impacts Analysis and No Net Loss Report. The

Restoration Plan was updated to reflect completed restoration projects, in addition to any changes in state requirements. An addendum to the Cumulative Impacts Analysis and No Net Loss Report was prepared to address the proposed land use changes associated with the SMP update and to demonstrate that no net loss of shoreline ecological functions will occur as a result of the proposed land use changes for conformance with WAC 173-26-186. *Please note that the City Council is not approving the supporting documents. They are being provided for informational purposes.*

### **3.0 Overview of Proposed Amendments**

Ecology provides a Periodic Review checklist which summarizes amendments to state law, rules and applicable updated guidance that may trigger the need for local SMP amendments during periodic reviews (Exhibit J). Staff followed the review procedures outlined in WAC 173-26-090(3)(b), using the checklist to document SMP review considerations and to determine if local amendments are needed to maintain compliance.

In addition, the update also considers changes to local plans and regulations, and changes to address local circumstances, new information or improved data. Planning Commission and staff also considered comments from stakeholders and the public, as well as Ecology and other reviewers (being mindful of the limited scope required during a periodic review).

A summary of amendments, with staff commentary, is included as Exhibit A.

### **4.0 Review Process to Date**

Poulsbo Municipal Code (PMC) 19.40.050 sets forth the process for Type IV text amendments. The City Council is the review authority, with a recommendation from the Planning Commission.

The Draft SMP documents were publicly released February 23, 2021. This release and all associated documents were posted on the City's "SMP Update" website, distributed to Washington State Department of Commerce and local, regional and state agencies, and emailed to the City's SMP Update, Development Regulations Update, and Comprehensive Plan Update interested parties e-notice lists.

On March 17, 2021, a combined Notice of Application (NOA) with Optional DNS and Notice of Planning Commission Public Hearing was published in the Seattle Times, emailed to applicable email notice lists, and posted at the Poulsbo Post Office and City Hall (Exhibit G). On April 19, 2021, the SEPA Threshold Determination was issued (Exhibit H). Two public comments have been received to date (Exhibit I).

On April 27, 2021, the Planning Commission held a duly noticed public hearing and voted to recommend approval to the Poulsbo City Council and adopted findings of fact in support of their decision (Exhibit K).

On June 30, 2021, a notice announcing the City Council Public Hearing was published in the Seattle Times and posted at the Poulsbo Post Office, Library, City Hall and the City's website; and emailed to the SMP update, public hearing and development regulations e-notice lists (Exhibit L).

### **5.0 City Council Amended Shoreline Master Program**

The Planning Commission, in its role as the City's primary land use advisory committee, reviewed the staff proposed initial release drafts at workshops on March 9 and April 13, 2021, and identified several amendments. Amendments were also recommended via public comment by Washington Department of Fish and Wildlife and Suquamish Tribe (Exhibit I). The Washington Department of Ecology provided recommended and required amendments with their initial determination (Exhibit M). Lastly, the City Council reviewed the proposed amendments at workshops on July 7 and 14, 2021, and identified several additional modifications.

## 6.0 Attorney General's Unconstitutional Takings Memo

Pursuant to Comprehensive Plan Policy PI-2.4, City staff members are familiar with Washington State Attorney General's "warning signals" for unconstitutional takings of private property. Staff has reviewed the Attorney General's Advisory Memorandum: Avoiding Unconstitutional Takings in the context of the draft ordinance update and has consulted with the City Attorney regarding the warning signals. Staff and the City Attorney are comfortable that the draft ordinance does not result in any unconstitutional taking.

## 7.0 Planning Commission and Staff Conclusion and Recommendation

The regulatory framework that guides local SMP policies includes the Revised Code of Washington (RCW) Chapter 90.58 and Washington Administrative Code (WAC) Chapter 173-26. The amendments being proposed are consistent with state law and rules governing the SMP. In addition, the Growth Management Act allows exceptions to an annual docket timeline for the adoption of SMP amendments, under the procedures set forth in RCW 36.70A.130(2)(a).

Therefore, the Poulsbo Planning Commission and Planning and Economic Development staff respectfully recommends the City Council approve the proposed Shoreline Master Program Update documents (Exhibits B-E).

## 8.0 City and Ecology Joint Review

The City of Poulsbo has elected to use an optional joint review process (WAC 173-26-104) that combines the local and state public comment periods required by RCW 90.58.090. This review includes a joint City and Ecology public hearing and a combined public comment period. The combined public comment period ran from March 17, 2021 to April 16, 2021. The Poulsbo Planning Commission and Ecology held a joint public hearing on April 27, 2021. The city submitted the Planning Commission recommended draft SMP to Ecology for an initial determination on April 28, 2021. The city received Ecology's initial determination on June 17, 2021 (Exhibit M). The City Council approved SMP update documents will be forwarded to Ecology for final review and action consistent with WAC 173-26-120.

## 9.0 City Council Public Hearing July 21, 2021

The City Council public hearing is scheduled for July 21, 2021 @ 7pm. Public meetings continue to be held virtually. This call-in number: 1-253-215-8782 and meeting id: 813 9550 9649 are provided for attendance. You may also attend the public hearing via zoom here: <https://us02web.zoom.us/j/81395509649>.

If you wish to provide verbal citizen comment during the virtual meeting, please call in 10 minutes prior to the meeting and to be added to the sign-in sheet to speak during citizen comments or the public hearing. Alternatively, please submit written comments requesting your comments be read during the meeting to [cityclerks@cityofpoulsbo.com](mailto:cityclerks@cityofpoulsbo.com), mail to City Hall, call and leave a message with the Clerk's Office, or drop comments off at the 3<sup>rd</sup> & Moe drop box **before 4:30 p.m.** to be read by the City Clerk during the virtual meeting.

### **PROPOSED MOTION:**

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## 10.0 Exhibits

- A. Summary of Proposed Amendments
- B. City Council Proposed PMC Chapter 16.08
- C. City Council Proposed PMC Chapter 16.09
- D. City Council Proposed Comprehensive Plan Chapter 5, Natural Environment
- E. City Council Proposed Shoreline Maps
- F. SMP Update Public Participation Plan
- G. Notice of Application with Optional DNS and Notice of Joint Public Hearing
- H. SEPA Threshold Determination DNS with commented checklist
- I. Public Comments Received to Date
- J. Ecology Periodic Review Checklist
- K. Planning Commission Findings of Fact and Recommendation
- L. Notice of City Council Public Hearing
- M. Department of Ecology Initial Determination