



TO: City of Lakewood Planning Commission
FROM: Tiffany Speir, Planning Division Manager
DATE: September 18, 2024
SUBJECT: Joint Department of Ecology/City of Lakewood Public Hearing on 2024 Locally-initiated Amendments to the Shoreline Master Program (SMP)

Lakewood's current critical areas ordinance (CAO) at LMC Title 14 and Shoreline Master Program (SMP) are interconnected:

- the CAO
 - incorporates the SMP's buffer widths for river and stream habitat protection buffers; and
 - identifies which lakes are regulated under the SMP or the CAO.

As part of the 2024 Comprehensive Plan and Development Regulation Periodic Review, the City is updating its CAO to reflect the best available science (BAS) now available about how to protect fish and wildlife habitat conservation areas (FWHCAs) and to directly regulate critical areas not governed under the SMP.

Also in 2024, the City is conducting a locally-initiated SMP update to reflect the changes made to the CAO. The update is strictly limited and does not amend any other text of the SMP.

The next full periodic update of the Lakewood SMP will be conducted in 2029 as required by state law.

Authority for 2024 locally-initiated amendments to Lakewood SMP

WAC 173-26-104 authorizes the optional joint review process that Lakewood is using for the 2024 SMP locally-initiated amendments. Per Ecology's review criteria found in WAC 173-26-201(1)(c), the proposed amendments:

- i. Will not foster uncoordinated and piecemeal development of the state's shorelines.
- ii. Are consistent with all applicable policies and standards of the Shoreline Management Act.
- iii. Meet all procedural rule requirements for public notice and consultation.
- iv. Satisfy master program guidelines analytical requirements and substantive standards, including that the amendment will not result in a net loss of shoreline ecological functions.

2024 SMP Update Review Schedule:

- Introduction at Planning Commission: September 18 at 6:30 pm
- Public Comment Period: September 18 – October 15. Submit comments to Tiffany Speir, Planning Division Manager, at tspeir@cityoflakewood.us.
- **Joint City of Lakewood/Department of Ecology Public Hearing: October 2 at 6:30 pm. This is the only public hearing that will be held per state law.**
- Planning Commission action on SMP update: October 16 at 6:30 pm
- Introduction at City Council: November 24 at 7:00 pm
- Action at City Council: December 2, 2024 at 7 pm (No public hearing is required at the City Council for this SMP update process.)

The draft 2024 locally-initiated updates to the Lakewood SMP are included below in underline/strikeout text.

LMC 16.10.030

Chapter 3 General Shoreline Provisions

- A. Introduction
- B. Policies and Regulations
 - 1. Universally Applicable Policies and Regulations
 - 2. Archaeological and Historic Resources
 - 3. Critical Areas**

Critical areas in shoreline jurisdiction are regulated by this SMP. As such, the Critical Areas and Natural Resource Lands Regulations, ~~Ordinance No. 630-5-10, December 7, 2015, and Ordinance No. 362-3(part), November 15, 2004, codified under Chapter 14 of the LMC, Ordinance No. 813, 2024, codified under Chapter 14 of the LMC~~ is herein incorporated by reference into this SMP (see Appendix A) with the exceptions and modifications noted below.

a) **Applicability**

Exceptions to the applicability of the Critical Areas and Natural Resource Lands Regulations in shoreline jurisdiction are provided below.

- 1) If provisions of the Critical Areas and Natural Resource Lands Regulations and other parts of the SMP conflict, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.
- 2) The setbacks and buffer provisions for SMA water bodies contained in Chapter 4, Section C shall apply.
- 3) Provisions of the Critical Areas and Natural Resource Lands Regulations

that are inconsistent with the SMA and SMP Guidelines shall not apply or are specifically modified in shoreline jurisdiction, as follows:

- a. The provisions do not extend shoreline jurisdiction beyond the limits specified in Chapter 2, Section C of this SMP.
- b. Provisions relating to exemptions in LMC Section 14.142.070 and allowable activities such as those outlined in LMC Sections 14.154.090 and 14.162.090 do not relieve the applicant from obtaining a substantial development permit or other permit or approval required under this SMP, or meeting the specific requirements identified in other sections of the SMP, including, but not limited to, mitigation sequencing and the no net loss requirement even when after-the-fact review and permitting is required for emergency actions. Where utility line trenching is proposed, it shall not be allowed in Category I or II wetlands, and is discouraged in Category III and IV wetlands.
- c. Provisions that include a “reasonable use determination” shall not apply within shoreline jurisdiction. Specifically, LMC Sections 14.142.080 and 14.142.090 do not apply. Such uses and developments require a variance in accordance with Chapter 6 of this SMP.
- d. Provisions relating to variance procedures and criteria do not apply in the shoreline jurisdiction. Specifically, LMC Section 14.142.110, which references variance procedures in the LMC, does not apply. Variance procedures and criteria within shoreline jurisdiction have been established in this SMP, Chapter 6 Section D and in WAC 173-27-170.
- e. Provisions relating to nonconforming uses in LMC Section 14.142.180 shall not apply. Please see Chapter 6, Section F for nonconforming development standards within shoreline jurisdiction.
- f. Geologically Hazardous Areas. Provisions contained in LMC Section 14.146.000 are hereby clarified and amended.
 - i. New development and the creation of new lots through subdivision shall not be allowed when it would cause foreseeable risk from geological conditions to people or improvements during the life of the development.
 - ii. New development that would require structural shoreline

stabilization over the anticipated life of the development shall not be allowed, unless stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.

iii. All shoreline stabilization shall comply with Chapter 5, Section C(1 and 2).

g. Waughop Lake shall be subject to the setback requirements outlined in the SMP and not to the 35' buffer requirement in the LMC Section 14.154.050(B)(1).

h. Identification of wetlands and delineation of their boundaries shall be done in accordance with the most recent version of the approved federal wetland delineation manual and applicable regional supplements, pursuant to WAC 173-22-035. All areas within the shoreline management area meeting the wetland designation criteria in that procedure are hereby-designated critical areas and are subject to the provisions of this SMP. See LMC Chapter 14.162.

i. Special permitted uses identified in LMC Section 14.162.060 may be authorized pursuant to the requirements herein, however, these provisions do not relieve an applicant from complying with all other procedural and substantive requirements of this SMP, including, but not limited to, mitigation sequencing, and no net loss.

~~j. Wetland Buffers. The following modifications to LMC Section 14.162.080 shall apply.~~

~~i. Buffer width averaging in LMC Section 14.162.080(B)(1) shall be limited such that the buffer at its narrowest point is no less than 75% of the standard width.~~

~~ii. Administrative buffer reductions allowed under LMC Section 14.162.080(B)(2) shall be limited to 25% of the standard buffer width.~~

~~iii. Within shoreline jurisdiction, wetland buffers as outlined in LMC Section 14.162.080 (A) for Category I wetlands shall not apply. Wetland buffers within shoreline jurisdiction for Category I wetlands shall be 300 feet.~~

~~k. Mitigation. LMC Section 14.162.100(A) shall not apply. Mitigation sequencing shall follow the requirements of Chapter 3, Section~~

~~B(4)(c)(3):~~

~~l. Agricultural Activities. LMC Section 14.162.110 shall not apply.~~

m. Alternative Review Process, Corps of Engineers, Section 404 Permit. LMC Section 14.162.120 shall not be construed to modify the requirements contained in this SMP. In all cases, the buffer requirements identified herein shall apply and mitigation sequencing as required in Chapter 4, Section B(4)(c)(3) must be employed in the design, location and operation of the project.

n. In-Stream Structures. Please see Chapter 5, Section C(5)(h) for regulations pertaining to in- stream structures such as dams and weirs.

o. Channel Migration Zones (CMZ). Within the shoreline jurisdiction surrounding Chambers Creek, the Shoreline Administrator shall require a channel migration study when the City determines that a shoreline use, development or modification proposal has the potential to interfere with the process of channel migration. Potential CMZ reaches are shown on map 12 of the Shoreline Analysis Report dated October 1, 2010. The study shall include recommended measures (consistent with mitigation sequencing) that demonstrate how no net loss of ecological functions associated with channel migration will be achieved. The proposal must demonstrate how it will avoid affecting the CMZ through utilization of nonstructural flood hazard measures and avoid the need for future shoreline modifications and structural flood hazard measures.

p. Flood Hazard Overlay. LMC Section 14.158.030 incorporates the Flood Hazard Overlay provisions of LMC Section 18A.40.100 by reference. In addition to the standards contained therein, the following shall apply:

i. Where feasible, nonstructural flood hazard reduction measures should be implemented.

ii. Development shall not increase flood hazards significantly or cumulatively and must be consistent with adopted and approved comprehensive flood hazard management plans, other comprehensive planning efforts, the requirements of the SMA and Chapter 173-26 WAC.

iii. New development and uses, including the subdivision of land, shall not be established when it is reasonably foreseeable that the development or use would require structural flood hazard

reduction measures within the CMZ or floodway.

iv. The following uses may be authorized within the CMZ or floodway:

- a. Ecological restoration or projects that protect ecosystem processes or ecological functions.
- b. Bridges, utility lines and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected area.
- c. Repair and maintenance of an existing legal use, provided such actions do not cause significant ecological impacts or increase flood hazards to other users.
- d. Modifications or additions to an existing legal use, provided that further channel migration is not limited and the new development includes appropriate protection of ecological functions.
- e. Development where existing structures prevent active channel movement and flooding.
- f. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition; the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions; and that the measure includes appropriate mitigation of impacts to ecological functions associated with the stream.

v. New structural flood hazard reduction measures shall be allowed in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so

as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with the requirements of Chapter 3, Section C(8).

vi. New structural flood hazard reduction measures shall be placed landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Such flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

vii. New structural public flood hazard reduction measures, such as dikes and levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long- term cost of the development.

viii. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this SMP and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

ix. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the State that evaluates cumulative impacts to the watershed system.

x. Flood hazard overlay variance criteria and requirements in LMC Section 18A.40.160 are in addition to the standard shoreline variance criteria and requirements identified in Chapter 6, Section D(1).