

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED LIMITED AMENDMENT TO THE CITY OF BREMERTON'S
SHORELINE MASTER PROGRAM**

SMP Submittal accepted July 13, 2016, Ordinance No. 5300
Prepared by Misty Blair on April 17, 2017

Brief Description of Proposed Amendment:

The City of Bremerton has submitted to Ecology for review a limited amendment to its Shoreline Master Program (SMP). The City Council adopted the amendment (Ordinance No. 5300) on May 18, 2016. The purpose of the limited amendment is to incorporate updated Critical Areas regulations and ensure consistency between the SMP and recently updated Comprehensive Plan. The Critical Areas regulations were recently updated to incorporate best available science, eliminating the need for separate critical areas regulations within the SMP. The City has opted to remove the redundant regulations from the SMP and incorporate more of critical areas regulations as a means to provide the same level of critical areas protection. SMP environment designation maps were amended to match recent Land Use Map changes, particularly to recognize the Medium Density Residential (MDR) and Multifamily Designation (MR) within the shoreline jurisdiction and accurately reflect the existing and planned multifamily residential development in these areas.

Regional staff recommends approval of the proposed limited amendment subject to both required changes (Attachment B) and recommended changes (Attachment C).

FINDINGS OF FACT

Need for amendment. The proposed changes are intended as minor adjustments to portions of the City of Bremerton SMP. According to the City, the proposed amendments are needed: to provide consistency between the SMP and the Comprehensive Plan; for ease of implementation of the critical areas regulations; and to accurately reflect the existing and planned development patterns within SMP Map areas B, C, and E. The original City SMP was approved by Ecology in 1977 with major amendments in 1989, 1992 and with amendments for the Downtown Development Standards in 2003. The City's SMP comprehensive amendment process pursuant to RCW 90.58.080 and 100 was completed in December 2013.

SMP provisions to be changed by the amendment as proposed: The following sections of the existing City SMP are proposed for change:

Section 4.020 Maps

- Map B & Map C – Re-designating a portion of shoreline from “Single Family Residential” to “Multi-Family Residential” shoreline designation.
- Map E – Re-designating a portion of shoreline from “Commercial” to “Multi-Family Residential” shoreline designation.

Section 5.010, incorporating the following updated Critical Areas Regulations

- BMC 20.14.200, Definitions of “Wetlands”
- BMC 20.14.330(f)(1) Standard Wetland Buffer Widths
- BMC 20.14.340(f) & (g) Mitigation Replacement and Enhancement Ratios
- BMC 20.14.730(d) Table 1: Water Type Buffer Standard

BMC 20.14.730(d)(5) Buffer Reduction

BMC 20.14.730(d)(8) Habitat Conservation Area Buffer

Section 7.010, deleting the above referenced Critical Areas Regulation exclusions and the following Regulations: (b) Wetland Buffers, and (c) Wetland Mitigation,

Section 7.090, modifying the Use Matrix Table to permit Single Family Residential within the Recreation and Commercial shoreline environment designations.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated from a local planning process related to the City's Comprehensive Plan and Critical Areas Ordinance (CAO) updates. This process began with a Planning Commission Workshop on September 15, 2014. The City commissioned a CAO Gap Analysis that was completed by The Watershed Company on July 7, 2015. The stated secondary purpose of this analysis was to compare the CAO with relevant sections of the City's Shoreline Master Program in order to bring the two regulatory documents into alignment with each other. Affidavits of publication provided by the City indicate notice of the hearing was published in the Kitsap Sun on April 7, 2016. The record shows that a public hearing regarding the SMP Amendment before the Planning Commission was held on April 19, 2016. The City received one comment on May 18, 2016 from the Suquamish Tribe, this comment was subsequently submitted again during the state public comment period and is included in the comment response summary (Attachment D). The associated Critical Areas Amendment, effecting the provisions of Bremerton Municipal Code (BMC) 20.14 were provided to Ecology for review and all recommendations contained within Paul Anderson's May 11, 2016 comment letter were incorporated into the final adopted version.

The Planning Commission unanimously recommended the proposed limited amendments to the Shoreline Master Program. City Council held an additional public hearing and considered the proposed SMP limited amendment on May 18, 2016. With passage of Ordinance No. 5300, on May 18, 2016, 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 July 13, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on August 3, 2016, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on August 3, 2016 and continued through August 19, 2016. No public hearing was held during the state comment period. Four (4) comment letters were received during the comment period. Ecology sent all written comments it received along with a summary matrix table to the City on September 16, 2016. The City requested and was provided additional time to respond to comments. On January 3, 2017 the City submitted to Ecology its responses to issues raised during the state comment period. A copy of the City's response along with Ecology's response to public comments is included as Attachment D.

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).

Consistency with Limited Amendment Criteria: The proposed amendment has also been reviewed for compliance with WAC 173-26-201(1)(c) of the SMP Guidelines. The amendment is necessary to improve consistency with the Act’s goals, policies and implementing rules applicable to shorelines of the state within the local government (WAC 173-26-201(1)(c)(i)(D) and to correct errors and omissions (WAC 173-26-201(1)(c)(i)(E). The City of Bremerton is not currently conducting a comprehensive shoreline master program (WAC 173-26-201(1)(c)(ii). The proposed amendments will not foster uncoordinated and piecemeal development of the state’s shorelines (WAC 173-26-201(1)(c)(iii). The amendment is consistent with all applicable policies and standards of the Act (WAC 173-26-201(1)(c)(iv). All procedural rule requirements for public notice and consultation have been satisfied (WAC 173-26-201(1)(v). The master program guidelines analytical requirements and substantive standards have been satisfied, as applicable to the amendments. The amendments will not result in a net loss of shoreline ecological functions (WAC 173-26-201(1)(c)(vi).

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form an issued Addendum to a Determination of Significance with Adoption of Existing Environmental Document for the City of Bremerton 2016 Comprehensive Plan Update which included the proposed SMP amendments on November 3, 2015. Ecology did not comment.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following documents prepared by the City in support of the SMP amendment:

- A July 14, 2015 technical memorandum to the City from The Watershed Company providing a Critical Areas Ordinance Gap Analysis, Identified as Attachment VI; and,
- The City’s updated Critical Areas Ordinance, identified as Attachment VII (Portions of Ordinance 5301 effective June 3, 2016), as well as the entirety of Ordinance 5301; and,
- The City’s updated Land Use Maps, identified as Attachment VIII (Portion of Ordinance 5299 effective June 3, 2016); and,

Summary of Issues Raised During The Public Review Process: The City's SMP limited amendment drafting/public review process coincided with the City’s Comprehensive Plan Update and Critical Areas Regulations update. During the local public participation period, only one comment was received related to the SMP limited amendment. During the Ecology public comment period four (4) comment letters were received. Public comments centered on the following topics:

- One comment was received supporting the limited amendment and requesting no changes.
- One comment was received requesting the limited amendment be denied based on a lack of information regarding the Chico Creek and Gorst Creek Watersheds, specifically related to their contributing and draining basins.
- One comment was received requesting that the City add a statement to the Applicability section (BMC 20.16.510) acknowledging that the Navy does not have to comply with the City’s SMP requirements.
- One comment letter contained several concerns related to CAO provisions which are proposed for incorporation into the SMP.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed limited SMP amendment, subject to and including Ecology's required changes (itemized in Attachment B), 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 the proposed SMP amendment, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new master program amendments (WAC 173-26-201(2)(c)(5) and WAC 173-26-186(8)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology's approved SMP amendments.

Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

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 proposed amendments satisfy the criteria for approval of limited amendments found in WAC 173-26-201(1)(c).

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 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 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 SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a).

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.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments to this SMP are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments, with required changes, is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action on the amendment.