

**STAFF REPORT:**

**Agenda Bill 2806**

**To:** Town Council and Mayor Lucas  
**From:** Doug Fortner, Town Planner  
**Through:** Paul Loveless  
**Date:** July 12, 2017  
**Subject:** Amendments to the Critical Areas Ordinance and Shoreline Master Program

**Attachments:** Proposed Ordinance 1567  
Proposed Resolution 1154

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**Summary:**

The Shoreline Master Program, Chapter 16.08 SMC, incorporates by reference the Town's Critical Areas Ordinance, Chapter 16.16 SMC. The Critical Areas Ordinance has been amended twice since the adoption of the current Shoreline Master Program, and the references need to be updated in the Shoreline Master Program. Additionally, the Department of Ecology has requested a minor change to the language in the Critical Areas Ordinance.

**Current Status:**

The Shoreline Master Program (SMP) was adopted by Ordinance 1494 in 2013 following a series of public hearings and meetings and approval by the Department of Ecology. The adoption included the Critical Areas Ordinance as it existed on September 28, 2012.

The Critical Areas Ordinance (CAO) was originally adopted in 2004. It was most recently amended by Ordinance 1541, adopted February 16, 2016 and Ordinance 1562, adopted February 7, 2017.

**Background:**

Under the Shoreline Management Act, Shoreline Master Programs are approved by the local city or county council and then approved by the Department of Ecology. SMPs regulate land use within the shoreline, a 200-foot wide swath alongside "jurisdictional shorelines" as set out in the Act. In Steilacoom, the jurisdictional shoreline includes Puget Sound and Chambers Creek.

Amendments to the CAO do not require Department approval, and become effective when approved by the Town Council. Because of the recent amendments to the CAO,

there are two sets of regulations regarding critical areas in Town: the older version in the shoreline areas, and the newer version in the rest of the Town. This amendment would unify the CAO rules throughout Town.

**Analysis:**

The proposed amendment replaces the existing references to the Critical Areas Ordinance with references to the Critical Areas Ordinance as amended by Ordinance 1541 (wetlands) and Ordinance 1562 (flood zones), and a new Ordinance (1567) to change the reference to the delineation manual at the Department's request.

As part of any amendment to a Shoreline Master Program, the Town has consulted with the Department of Ecology on this proposed revision by sending them the proposal. The Department has said that the amendment is appropriate, but the Department would also like a change to the language in the Critical Areas Ordinance regarding the delineation manual as follows:

16.16.400 Designation and rating

A. **Designating wetlands.** Wetlands are those areas, designated in accordance with the most current version of the approved federal wetland delineation manual and applicable regional supplements ~~Washington State Wetland Identification and Delineation Manual~~, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. All areas within the Town meeting the wetland designation criteria in the Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter.

This suggestion would bring the Town's CAO in line with the Department's approved delineation manual. Adopting Ordinance 1567 will make the change to the federal delineation manual.

### **Planning Commission action**

The Planning Commission reviewed these proposals at their April 10, 2017 meeting. The Commission recommended approval of both the change to the Critical Areas Ordinance and the changes to the Shoreline Master Program.

### **Recommendation**

Staff recommends that the Town Council approve the amendments to the Critical Areas Ordinance and Shoreline Master Program.

As any change to the Shoreline Master Program has to be approved by the Department of Ecology, the approval is in three steps.

First, approve Ordinance 1567 to amend the Critical Areas Ordinance as referenced above.

Second, approve Resolution 1154 which sets out the proposed changes to the Shoreline Master Program.

Third, when formal approval of the proposal is received from the Department of Ecology, staff will bring the Shoreline Master Program amendments back to Council for adoption by ordinance.

### **Motions**

1. I move to adopt Ordinance 1567, thereby amending the Critical Areas Ordinance.
2. I move to adopt Resolution 1154, thereby approving amendments to the Shoreline Master Program for submittal to the Department of Ecology.