

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF SEQUIM
SHORELINE MASTER PROGRAM**

SMP Submittal accepted December 21, 2012, Ordinance **No. 2012-19**
Prepared by Jeffree Stewart on June 28, 2013

Brief Description of Proposed Amendment:

The City of Sequim has submitted a comprehensive update to their Shoreline Master Program (SMP) to Ecology for approval. This was to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, and administrative provisions, which include the provisions of **Appendix A**: the local Critical Areas Regulations as they apply in shoreline jurisdiction.

Associated materials supporting the SMP are, **Appendix B**: the Inventory & Characterization Report, **Appendix C**: the Restoration Plan, and **Appendix D**, Cumulative Impacts Analysis.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27, adopted in 2003.

The update is intended to entirely replace the City's existing SMP. This updated SMP regulates approximately 5,359 lineal feet of marine shoreline within City limits, fronting on Sequim Bay, a Shoreline of Statewide Significance, and associated shorelands.

This SMP update is also needed to address land use changes that have occurred along the City's shorelines and provide SMP consistency with the environmental protection and land use management policies and practices provided by the City's Critical Areas Ordinance. Upon statewide adoption, the City intends to codify the SMP into Title 19 of the Sequim Municipal Code.

Shoreline jurisdiction includes some Critical Areas as regulated under the City's Comprehensive plan. A new Critical Areas Code was passed by the City in March of 2012. The provisions of Chapter 18.80 are adopted into the SMP by reference, while specified provisions (Section 18.80.080) are excluded for not conforming to RCW 90.58. In the SMP, Chapter 6.1 identifies CAO provisions explicitly for critical areas in shoreline jurisdiction as distinct from those outside shoreline jurisdiction.

Amendment History, Review Process: The record shows that numerous public presentations were conducted to inform citizens of the update process for the SMP. Workshops hosted by the City enabled citizens to interact with the Department of Community Development in advance of the SMP being drafted, and their perspectives were taken into account. Fourteen public meetings and hearings were held before the Planning Commission and City Council. A Public hearing on the SMP

was scheduled for September 10, 2012, that was continued to November 13, 2012. Affidavits of publication provided by the City indicate notice of the hearing was published on August 22, 2012 and November 7, 2012.

With passage of **Ordinance #2012-19**, on November 26, 2012, the City noted adoption of the Critical Area and authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review November 28, 2012 and verified as complete on December 21, 2012. Notice of the state comment period via email and postal notices was distributed to state task force members and interested parties identified by the City, in compliance with the requirements of WAC 173-26-120.

The state comment period began on February 6, 2013 and continued through March 11, 2013. One Tribal Government submitted comments to the City on the Restoration Plan, a document prepared as part of the comprehensive update process. The Washington Department of Archaeology & Historic Preservation submitted written comments on a portion of the SMP; these were forwarded by Ecology to the City.

On June 4, 2013, the City sent a summary of comments and responses to Ecology, noting how the specific issues raised before and during the state comment period had been addressed. Revisions to the SMP were drafted by City staff. These changes occurred subsequent to local approval and submittal to Ecology, and they are annotated among Ecology's Recommended Changes.

SMP provisions to be changed by the amendment as proposed:

Under the 1996 Locally Adopted SMP, there are four environment Designations. These are **Urban, Suburban, Conservancy, and Aquatic**. The updated SMP regulates activities and development along the City's shorelines using the following six Designations:

- 1) **Natural** – to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.
- 2) **Shoreline Residential** –accommodates residential development and associated structures that are consistent with the Shoreline Management Act (RCW 90.58)and that provide appropriate public access and recreational uses.
- 3) **Urban Conservancy** – protects and restores ecological functions of open space, flood plain or sensitive lands where they exist in urban and developed settings, while allowing a limited variety of compatible uses.
- 4) **Urban**-provides for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring previously degraded ecological functions.
- 5) **Research District**-provides for research and development uses associated with environment, biotechnology, energy efficiency, marine and coastal security, and public and private

educational partnerships. Protection or enhancement of existing ecological functions is a recognized objective of this designation.

- 6) **Aquatic** – to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

The table below is a summarization of the changes in the updated SMP along with a comparison to the existing 1978 SMP.

Proposed Change Topic	Existing 1996 SMP Requirement	Proposed Requirement
Shoreline Stabilization	Includes policies and regulations that address minimizing impacts. Provides criteria for evaluation. Includes distinct policies and regulations for different types of armoring.	Consistent with Guideline requirements of WAC 173-26. Provides criteria, and relates allowed modifications with types of activity (such as breakwaters, bulkheads....). New Stabilization is restricted to the minimum size necessary. It will be allowed only with a demonstrated need for protection, where geotechnical analysis is provided, proving less impacting alternatives are not feasible.
Critical Area Regulations	No critical area regulations are identified in SMP, although Growth Management overlap was acknowledged.	Incorporated 2012 CAO provisions which have been modified for consistency with the SMA. These include protections for fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams, wetlands, and aquifer recharge areas.
Use Matrix	1996 SMP has a matrix showing size of buffers required in the Environment Designations.	The new matrix specifically addresses types of uses. It indicates if those are allowed, prohibited, or require Conditional Use approval in each of the Environment Designations.

Environment Designations	Urban, Suburban, Conservancy, Aquatic	Natural, Aquatic, Urban, Urban Conservancy, Research District, Shoreline Residential.
SMP SETBACKS	Setbacks vary by environment Designation from 0' to 200'	Critical Area setbacks apply coincident with shoreline buffer that varies by Environment Designation. Actual setback will be the most landward of these two where they differ. The range established is from 10' to 100'. Important to note, most of Sequim's shoreline areas are already developed.
Boating Facilities	Specific policies and regulations for various kinds of facilities.	Marinas and individual boating facilities regulated through policies and regulations. These limit expansion, and require best management practices for habitat protection.
Piers, docks	Specific limitations and allowances described.	Up to 300 feet for residential docks. Important to note there are limited instances in Sequim where these could be located.
Ecological protection	Requirements to avoid and minimize impacts of some projects.	Implementing the concepts of no net loss of shoreline ecological function, mitigation sequencing is required for all shoreline developments.

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). This included review of a SMP Submittal Checklist, which was 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 on March 8, 2012. Notice of the SEPA determination was published in the Courier Herald on March 14, 2012. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

These supporting documents include:

- Critical Areas Ordinance**
- Inventory & Characterization**
- Restoration Plan**
- Cumulative Impacts Analysis**

Summary of Issues Raised During The Public Review Process:

In the case of Sequim’s SMP Update, most of the public comment occurred at the front end of the process. The record shows that very few concerns were registered in either the public review leading to local adoption, or the statewide public comment period.

The two exceptions were comments from the Jamestown S’Klallam Tribe that propose enhancements to the City’s Restoration Plan, and from the Washington Department of Archaeology and Historic Preservation. The latter are to bring specified areas of the SMP into closer accord with related state law and policy concerning cultural heritage aspects of shoreline areas.

In both cases, the City of Sequim embraced the comments it received, agreeing to include the contents. Ecology finds that the City of Sequim has conducted the public review process admirably. The record shows that citizen and other interested party comments were well-considered by the City and were significant in shaping the Shoreline Master Program.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed comprehensive SMP update, 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 approval of the proposed SMP, 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 updated master program (WAC 173-26-201(2)(c)).

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 at least equal to that provided by the City's existing critical areas ordinance.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

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 City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and 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 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.

Ecology concludes that the City's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

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.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, 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 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. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternatives.