



## City Council

# Approval of an Ordinance to Amend the Critical Areas Ordinance and Shoreline Master Program

**Agenda Date:** 7/18/2017  
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**Type:** ordinance **Version:** 2 **Status:** Passed

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### Title

Approval of an Ordinance to Amend the Critical Areas Ordinance and Shoreline Master Program

### Recommended Action

#### Committee Recommendation:

The Planning Commission recommends amending OMC 18.32.500, 18.32.515, 18.02 and 18.20; and amendments to the Shoreline Master Plan. The Planning Commission forwards to the City Council the draft amendments to OMC 18.32.300-330 (locally important species protections) with no recommendation.

#### City Manager Recommendation:

Move to approve on second reading, adopting amendments to the Critical Areas Ordinance (CAO) and related code sections, and to the Shoreline Master Program.

### Report

#### Issue:

Whether to adopt proposed amendments to the CAO and related code sections, and to the Shoreline Master Program, and whether to adopt additional protections for locally important species including the Great Blue Heron.

#### Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development, 360.570.3746

#### Presenter(s):

Leonard Bauer, Deputy Director, Community Planning and Development

#### Background and Analysis:

Background and analysis has not changed from first to second reading.

The Washington State Growth Management Act (GMA) required the City to update its CAO in 2016 to ensure it was consistent with the Best Available Science (BAS) and to protect anadromous fish. In 2015, the Land Use and Environment Committee (LUEC) directed staff to conduct an update of the

City's CAO in two phases:

- Phase 1 - the state-mandated update to include BAS and protect anadromous fish. Phase 1 was completed by City Council adoption of Ordinance 7030 on August 16, 2016 (see Attachment).
- Phase 2 - review potential additional protections for locally important habitat and species, including Great Blue Heron.

State law requires that protection measures for critical areas that occur along shorelines must be included in the City's Shoreline Master Program (RCW 36.70A.480). So, to ensure the City's CAO provisions also apply in shoreline areas, the City's Shoreline Master Program (SMP) adopts the CAO by reference. Amendments to the CAO are also then required to be amended into the SMP and approved by the WA Department of Ecology. Therefore, Ordinance 7030 specified that the Phase 1 CAO amendments will be effective upon approval by Ecology. The Phase 2 CAO amendments, when completed, will be combined with Phase 1 amendments to provide Ecology with a single package of SMP amendments to review and approve.

#### Phase 2 - Locally Important Habitat and Species

The City's consultant, ESA, presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017, (See Attachments). Staff hosted a public open house to discuss proposed amendments, including protections for Great Blue Herons, on January 18, 2017. Planning Commission held a public hearing on January 23, 2017, and deliberated further at its meetings on February 6 and 27, March 6 and 20, and April 3. (See attachment containing all meeting packets, minutes and public comments considered at those Planning Commission meetings.)

On February 27, 2017, the Planning Commission completed its deliberations on part of the recommended changes and unanimously supported the proposed amendments to OMC 18.02, 18.32.500, and 18.20, and amendments to the Shoreline Master Program. Agreement on the proposed amendments to OMC 18.32.300-330 could not be reached and they voted to send no recommendation to Council on those sections. Instead, the Commissioners passed a motion to write a letter to City Council explaining their reasons (See Attachment). The information and comments reviewed by the Planning Commission during their deliberations is attached.

#### Draft Protections for Locally Important Species

Staff and consultant believe that the city's existing CAO and SMP regulations will adequately protect most species and habitat but, based on community interest and Council direction, proposed the amended regulations to OMC 18.32.300-330 (shown in Attachment) to give added protection to the Great Blue Heron and its habitat, while continuing to respect private property rights.

Staff also proposed a process by which additional locally important species and/or habitat could be nominated in the future as conditions change (See proposed new OMC 18.32.325 in Attachment).

#### Great Blue Heron and Habitat

In general, staff proposed the following approaches to protect heron nesting colonies when development is proposed:

- Adopt fixed-width buffers around heron nesting colonies
- Require tree and vegetative screening
- Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
- Require mitigation sequencing where appropriate
- Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, staff proposed smaller buffers - a 200-foot year-round buffer and an additional 300-foot seasonal buffer for nesting colonies - than that recommended by WDFW for nests in rural and less developed areas.

#### Non-regulatory Approaches

The best way to protect important habitat and species is to acquire and manage land that provides the necessary habitat for important species. The Planning Commission also discussed ways in which the City could pursue these approaches. For example, the City's existing Habitat Stewardship and Parks programs could include consideration of locally important species and habitats as part of acquisition and stewardship programs.

The City could also:

- Research and develop incentives for landowners who want to permanently protect any type of breeding season habitat; and
- Help non-profit groups to develop an ongoing citizen-science training program to assist in monitoring the status of locally important habitat and species.

#### Shoreline Master Program (SMP) Amendments

When the City amends its CAO, it must also amend its SMP to adopt the new CAO by reference. The Washington State Department of Ecology must approve the amendments to the SMP before they can become effective.

The proposed amendments to Olympia's SMP (included in Attachments) adopt the amended Phase 1 and Phase 2 CAO by reference, ensure consistency with the CAO adopted August 16, 2016, and correct errors. The minor changes to OMC 18.02.180 Definitions, OMC 18.32.500 and 515, and OMC 18.20 are required to bring Title 18 OMC into consistency with the SMP.

#### **Neighborhood/Community Interests (if known):**

Many groups and individuals in the community are interested in protection of the Great Blue Heron. Comments considered by the Planning Commission are included in Attachment 4.

#### **Options:**

1. Adopt ordinance in Attachment 1, amending OMC 18.32.500, 18.32.515, 18.02 and 18.20; and amendments to the SMP; and **not including locally important species protections.**
2. Do not Adopt ordinance in Attachment 1, amending OMC 18.32.500, 18.32.515, 18.02 and 18.20; and amendments to the SMP; and **not including locally important species protections.**

**Financial Impact:**

Initial review of locally important habitat and species was included in Community Planning and Development Department's budget; however, habitat and species protections in Attachment 2 may require additional resources in the future.

**Attachments:**

Ordinance - Without Local Species - chosen  
Ordinance - With Local Species - not chosen  
Letter from Planning Commission  
Planning Commission meeting packets and minutes  
ESA Technical Memo - Options  
ESA Technical Memo - Recommendations  
Ordinance 7030 adopting CAO update Phase 1