



City Council

Approval of an Ordinance Adopting Proposed Amendments to the Shoreline Master Program and Critical Areas Ordinance

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Title

Approval of an Ordinance Adopting Proposed Amendments to the Shoreline Master Program and Critical Areas Ordinance

Recommended Action

Committee Recommendation:

The Planning Commission recommends adoption of the proposed amendments to the Shoreline Master Program and Critical Areas Ordinance in order to complete the required Periodic Review.

City Manager Recommendation:

Move to adopt the proposed amendments to the Shoreline Master Program and Critical Areas Ordinance in order to complete the required Periodic Review.

Report

Issue:

Whether to adopt the proposed amendments to the Shoreline Master Program and Critical Areas Ordinance to complete the Periodic Review required under the State's Shoreline Management Act.

Staff Contact:

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Presenter(s):

Joyce Phillips, Principal Planner, Community Planning and Development
Dan Nickel, Vice President, The Watershed Company

Background and Analysis:

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

Shoreline Master Programs (SMPs) are local land use policies and regulations that guide development and the use of most shorelines. SMPs apply to both public and private uses for lakes, streams, associated wetlands, and marine shorelines. They protect natural resources for future generations, provide for public access to public waters and shores, and plan for water-dependent uses. SMPs must be consistent with the Shoreline Management Act (RCW 90.58) and must be

approved by the Washington State Department of Ecology (Ecology).

SMPs must be reviewed and, if necessary, updated to ensure they remain compliant with state laws and local comprehensive plans. This review must be completed every eight (8) years and is known as the “Periodic Review”. The deadline to complete Olympia’s SMP Periodic Review is June 30, 2021.

Ecology provides technical assistance, guidance documents, and grant funding for this work. Ecology’s grant contract requires completion of five tasks, designed to ensure local governments complete the required Periodic Review. The primary task is to review the SMP and draft revisions, if needed.

The City used Ecology’s checklist and determined that some changes are needed. This analysis was reviewed by Ecology for their input. The outcome of that review, known as the Gap Analysis, then became the minimum scope of work for the update. The public was also invited to review and comment on the results of the gap analysis.

The draft SMP amendments were issued in late October of 2020. Related revisions to the Critical Areas Ordinance (CAO), to update the version of Ecology’s wetland guidance the City uses and to ensure consistency and coordination between the SMP and the protection of environmentally sensitive areas, were issued in late November and posted online in early December. The initial drafts are posted online (Attachment 2). A summary of the biggest proposed changes was also posted on the project webpage. The City continues to work with the Department of Ecology under the new joint review process. Such work included a Public Open House conducted jointly on December 2, 2020, the joint public comment period (December 4, 2020 through January 11, 2021) and a joint public hearing (January 11, 2021). The public comment period closed at the end of the public hearing.

Planning Commission Recommendation

After the hearing, the Planning Commission deliberated on the draft amendments and public comments received during its next two public meetings. Although the Commission was aware that staff was working to prepare a response to public comments, and even requested that some of the “big picture” type of comments be addressed by identifying additional entities and programs at work to help improve the health of the Puget Sound, the Commission was comfortable making a recommendation to approve the proposed amendments with two revisions:

- 1) The setback and vegetation conservation area reduction for the portion of the Waterfront Recreation Shoreline Environment adjacent to Budd Bay shall be a minimum of 50 feet instead of 30 feet as recommended by staff; and,
- 2) Revise the term “dredge spoils” to “dredge materials”.

Response to Public Comments

The City was required to provide Ecology with written responses to public comments received. The Watershed Company and City Staff prepared the responses and proposed additional revisions to the SMP and CAO in order to respond to some public comments. It is not uncommon for additional revisions to be drafted in response to public comments and one of the required submittals to Ecology is a summary of such amendments. See the Response to Public Comments (Attachment 4) and Summary of Amendments Proposed after the Public Hearing (Attachment 5).

Ecology's Initial Determination of Consistency

Ecology provides guidance and technical assistance throughout the process. Ecology conducts a formal review of the final draft and issues an Initial Determination of Consistency (Attachment 3). This step is intended to ensure any formal action taken by the Council is on amendments that are also acceptable to the Department of Ecology. This is an important step because Ecology must approve any amendments to the SMP. In this review, Ecology identified three required revisions and five recommended changes.

City staff reviewed the comments from Ecology and agreed with all of the required and recommended changes, although one additional point of clarification was added. The clarification pertains to the Table in Section 18.32.435 of the Critical Areas Ordinance regarding buffers for Type S waters (now refers the reader to the SMP) and for Priority Riparian Areas (critical area buffer of 250 feet). City staff worked with Ecology staff to ensure the clarification language is acceptable to both entities and retains the findings of Ecology included in the Initial Determination of Consistency.

Next Steps

SMPs are unique policy and regulatory documents because they need to be approved by both the City and Ecology. Any modifications require approval by both entities before the SMP can be implemented. Once the City Council takes action on these proposed amendments, the SMP and related CAO amendments are sent to Ecology for its final consideration and approval.

Neighborhood/Community Interests (if known):

Shoreline issues are of interest to our community. Several people submitted written comments expressing viewpoints on the SMP in general, as well as on the proposed amendments. Most comments received call for greater environmental protection of shorelines and specifically for Puget Sound.

Several comments submitted raised concerns about the health of the Puget Sound including species protection and water quality issues. Some comments were beyond the scope of the Shoreline Master Program Periodic Review. There are several significant efforts underway to address the health of the Puget Sound, most of which are addressed by state or federal agencies.

Other comments addressed issues regarding public access requirements, live-aboard vessels in marinas, nonconforming structures, setbacks, and development near shorelines. Public comments received during the public comment period are provided on the project webpage. Comments received after the close of the public hearing are attached. Any comments that are received after the issuance of this staff report will be conveyed to Councilmembers electronically, via email.

Options:

1. Adopt the ordinance approving the proposed amendments to the Shoreline Master Program and Critical Areas Ordinance, as proposed.
2. Adopt the ordinance approving the proposed amendments to the Shoreline Master Program and Critical Areas Ordinance, with specific modifications.
3. Do not adopt the ordinance to amend the Shoreline Master Program or Critical Areas Ordinance.

Financial Impact:

The City entered into a contract with the Washington State Department of Ecology for \$28,000 in grant funding to help complete the Periodic Review. The City hired The Watershed Company for professional services to conduct the review, draft required updates, and to assist in the review and adoption process.

Attachments:

Ordinance
Project Webpage
Ecology Initial Determination
Response to Public Comments
Amendments Proposed after Public Hearing Summary
Additional Public Comments