

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

SMP Submittal accepted June 24, 2016, Ordinance No.938
Prepared by Sarah M. Cassal on August 15, 2016

Brief Description of Proposed Amendment:

The City of Roy has submitted to Ecology for approval, an amendment to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The amendment to the SMP contains changes to the City's Critical Areas Ordinance which is adopted by reference by the SMP. Additional reports and supporting information noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the state-mandated periodic update of the City's Critical Areas Ordinance under the Growth Management Act. The City SMP was comprehensively updated in November 2012.

SMP provisions to be changed by the amendment as proposed: The following sections of the existing City Critical Areas Code which is adopted by reference into the SMP are proposed for change (specific changes are found in Attachment A, Exhibit 1):

- Roy City Code, Section 10-5, from section 3 to section 16, addressing critical areas.
- Roy City Code, Section 10-5A, from section 1 to section 6, addressing wetlands.

The following section of the Roy City Code Title 12 Shoreline Master Program, Subsection 12-3.B.3 Critical Areas was amended as follows:

3. Critical Areas

The Critical Areas Code (CAO), Ordinance 695 as amended by Ordinance No. 938 and as codified under Title 10, regulates critical areas in shoreline jurisdiction. Chapter 5 of the RCC is herein incorporated into this SMP except as noted below.

1. If there is a conflict between the provisions of the CAO and other parts of the SMP, the provisions of the shoreline jurisdiction shall apply, as determined by the City.
2. Provisions of the CAO that are not consistent with the SMA, Chapter 90.5885 RCW, and support Washington Administrative Code chapters shall apply in shoreline jurisdiction, as follows:
 - a. The provisions of the CAO do not extend shoreline jurisdiction beyond the limits specified in the SMP. For regulations addressing critical area buffer areas that are outside shoreline jurisdiction, see Chapter 10-5 of the CAO.
 - b. Provisions of the CAO related to variance procedures and criteria do not apply in shoreline jurisdiction. Specifically, Section 10-5-14B of the CAO does not apply. Variance procedures and criteria have been established in this SMP, Chapter 7 Section C and in Washington Administrative Code WAC 173-27-170.4.
 - c. In shoreline jurisdiction, identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland

delineation manual and applicable regional supplements, per WAC 173-22-035. ~~Specifically, the identification and delineation portion of Section 10-5A-1 of the CAO does not apply.~~

3. Provisions of the CAO that create exemptions not authorized by the Shoreline Management Act do not apply in shoreline jurisdiction. Specifically, Section 10-5-7S of the CAO does not apply.

Amendment History, Review Process: The City indicates the proposed SMP amendment originated from a local planning process that began on March 18, 2016. The record shows that a public hearing before the Planning Commission was held on April 12, 2016. Affidavits of publication provided by the City indicate notice of the hearing was published in March 18, 2016 in the Nisqually Valley News. The Roy City Council conducted a public hearing on May 9 and May 23, 2016. Affidavits of publication provided by the City indicate notice of the hearing was published on April 29, 2016 in the Nisqually Valley News.

With passage of Resolution #938, on May 23, 2016, the City authorized staff to forward the proposed amendment to Ecology for approval.

The proposed SMP amendment was received by Ecology for state review and verified as complete on June 24, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on July 14, 2016, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on August 25 and continued through August 9, 2016. On July 7, 2016, notice of the public comment period was posted on Ecology's website and interested parties were notified by US Mail. No individuals nor organizations submitted comments on the proposed amendment.

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) on June 7, 2016. Notice of the SEPA determination was published in the Nisqually Valley News on March 18, 2016. 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:

- *a May 9, 2016 Consultant Report to the Roy City Council*

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted, Ecology concludes that the City's proposed SMP amendment 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).

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 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) 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.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed SMP amendment is consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, Ecology's approval of the proposed amendments is effective 14 days from Ecology's from this letter.