ATTACHMENT A: FINDINGS AND CONCLUSIONS

THE CITY OF COVINGTON’S COMPREHENSIVE SHORELINE MASTER PROGRAM UPDATE SUBMITTED TO ECOLOGY AS ORDINANCE NO. 05-11

**Brief Description of Proposed Amendments:**

The City of Covington (City) has submitted to the Department of Ecology (Department) a comprehensive update of its shoreline master program (SMP). The City is adopting the Critical Areas Ordinance (CAO) as part of the SMP by direct reference. The CAO was originally adopted as Ordinance 14-05, CMC 18.65, on August 23rd, 2005, and utilized Best Available Science. In order to be consistent with Chapter 173-26 WAC - *Part III Guidelines*, (Guidelines) and the no net loss of ecological functions standard, some changes to the CAO were required as part of the city’s submittal.

**FINDINGS OF FACT**

**Need for Amendment:** The City currently uses an old version of King County’s SMP hence a tailored set of policies and regulations are needed. The proposed update is required to bring the SMP into compliance with RCW 90.58.080 – *Timetable for local governments to develop or amend master programs* and the most recent standards for SMPs as set forth in the Guidelines.

**Amendment History, Review Process:** The *Shoreline Analysis Report* states that the City’s shoreline jurisdiction consists of 2.45 miles of stream and lake shorelines - Big Soos Creek, Jenkins Creek and Pipe Lake. These water bodies are located in the Duwamish/Green River Watershed.

The City began its SMP update in mid 2007 through a grant from the Department. The record states that an Ad Hoc Citizen Advisory Committee comprised of a cross-section of stakeholders held six public meetings over a fourteen month period. The record shows that the committee’s recommendations were forwarded to the Covington Planning Commission which held two public meetings and one formal hearing.

The record shows that a SEPA Determination of Non-Significance was issued on January 15, 2010. The State of Washington Department of Commerce (Commerce) gave 60-day notice of the City’s intent to adopt on January 27th, 2011.

The Covington Planning Commission unanimously recommended approval of the SMP. The Covington City Council adopted the SMP on April 26th, 2011, through Ordinance 05-11. The Ordinance states that the Shoreline Master Program Update is formally adopted and includes Goals, Policies and Recommendations; Shoreline Environmental Designations; Shoreline Regulations and Permit Process; Shoreline Restoration Plan; and Cumulative Impacts Analysis.

The complete, proposed SMP amendment was received by Ecology for state review and approval on May 16, 2011. Along with interested parties identified by the City, notice of the state
Consistency with Chapter 90.58 RCW: The proposed amendments have 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 an SMP contained in RCW 90.58.090.

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 -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City. Two references to repealed WAC 173-14 were made in the SMP which should have been WAC 173-27. These are considered clerical errors.

Consistency with SEPA Requirements: The City issued a SEPA addendum on April 9, 2010, consistent with WAC 197-11-600. The preparation and notice of addenda was done in accordance with WAC 197-11-625.

Summary of Issues Raised During The Public Review Process:

Several Pipe Lake home owners expressed concern over potential public access and redevelopment of the Camp McCullough. The City pointed out that public access of state shorelines is a priority of the SMA and it could not be outright prohibited.

CONCLUSIONS OF LAW

The City of Covington’s updated shoreline jurisdiction does not include expanded jurisdiction necessary for buffers of critical areas within shorelines of the state (RCW 90.58.030(2)(f)). Therefore, as required by RCW 36.70A.480(6), those critical areas and their buffers not within shoreline jurisdiction as defined by RCW 90.58.030(2.d. or 2.d.i.) shall be regulated by the City’s Critical Areas Ordinance.

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City’s SMP proposal is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This includes a conclusion that the proposed SMP contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new master program amendments (WAC 173-26-201(2)(c).
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 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents, including conducting public hearings, notice, consultation with parties of interest and solicitation of comments from tribes and government agencies.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act, as the City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance for the proposed SMP amendment.

Ecology concludes that the City’s May 16, 2011, SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3) (a) through (h), including submittal of an SMP submittal checklist as required by WAC 173-26-201(3)(a) and (h).

Ecology concludes that the City has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

**DECISION AND EFFECTIVE DATE**

Based on the preceding records, and including the correction of clerical errors, Ecology has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules. Ecology approval of the proposed amendment is effective 14 days after Ecology’s final action approving the amendment. This will represent the City’s and Ecology’s final action regarding the SMP update.