ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENTS TO THE CITY OF MOUNT VERNON
SHORELINE MASTER PROGRAM

SMP Submittal dated December 1, 2010, Ordinance No. 3508

Brief Description of Proposed Amendments:

The City of Mount Vernon (City) has submitted a comprehensive update of its shoreline master program (SMP) to Ecology for approval for mandated by the Shoreline Management Act (SMA).

The City included sections of its critical areas ordinance (CAO) for wetlands as Appendix “C” which is part of the SMP. The City chose to adopt by direct reference MVMC 15.40.080, “Fish and Wildlife Habitat Conservation Areas” which is part of the CAO codified August 4, 2010, as part of Ordinance 3444.

FINDINGS OF FACT

Need for Amendment: The City has been operating under Skagit County’s SMP since 1977. The adopting ordinance states that the amendment provides consistency between with the City’s comprehensive plan and development regulations as well as the Downtown and Waterfront Master Plan, on-going city-wide flood risk reduction planning activities, and the unique nature of the City’s natural and developed shoreline. The City consists of slightly over 6-miles of Skagit River shoreline. The shoreline is for the most part diked. In some areas the dikes are set back and allow for recreational opportunities. A wetland bank has been created on the north edge of town where no dikes exist. As required by RCW 90.58.080 the proposed amendments are needed to comply with the statutory deadline for comprehensive update of the SMP.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated from a local planning process that began in early 2009. The record shows that 12 Planning Commission Study Sessions and an Economic Development Committee Study Session open to the public were held between April 7, 2009, and May 18, 2010. The record indicates that this was followed by a City Council Economic Development Committee Briefing and two Planning Commission Hearings. Affidavit of E-mailing provided by the City indicates notice of mailing on November 10 for the City Council adoption hearing on December 1, 2010. Notice of publication provided by the City indicates notice of the City Council hearing was published on November 12th. With passage of Ordinance #3508, on December 1, 2010, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on December 16, 2010. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on December 23rd in compliance with the requirements of WAC 173-26-120. The state comment period began on January 4, 2011, and continued through February 4, 2011. No comments were received. Ecology determined that a public hearing was not necessary with concurrence by the City.
Throughout the State’s review process the City and Ecology consulted on the required and recommended changes. It was agreed that changes to language related to flood issues should be reviewed by the flood control district.

**Consistency with Chapter 90.58 RCW:** The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020, related statutory requirements and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence (see above) 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.

**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 for the proposed SMP amendments on February 4, 2010; notice of the SEPA determination was published in the Skagit Valley Herald February 8, 2010. Ecology did not comment on the DNS.

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

These supporting documents include:

- Public Participation Plan
- Shoreline Inventory and Characterization,
- Cumulative Impacts Analysis
- Shoreline Use Analysis, and
- Restoration Plan

**CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City’s SMP proposal, 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 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 master program amendments (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 protection provided by the CAO and results in no net loss of ecological functions.

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 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 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 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 land necessary for buffers for critical areas located 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 are consistent with the policy of the Shoreline Management Act, 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 on the date at which Ecology receives written notice that the City has agreed to the required changes.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of 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 action on the amendment.