

ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED PERIODIC REVIEW OF BRIER SHORELINE MASTER PROGRAM

Findings of Adequacy Submittal accepted March 12, 2019, Resolution No. 575
Prepared by Department of Ecology on September 14, 2020

Use of this Document

Ecology's *Findings and Conclusions* (Attachment A), including reference to Attachment B (Translating 2004 and 20014 Wetland Rating Scores), provides the factual basis for the Department of Ecology's (Ecology) decision on the City of Brier's proposed Finding of Adequacy to their Shoreline Master Program (SMP) as a result of their periodic review.

Brief Description of Proposed Action

The City of Brier (City) has submitted to Ecology for approval Findings of Adequacy concluding that no Shoreline Master Program (SMP) amendment is needed to comply with periodic review requirements.

FINDINGS OF FACT

Need for action

The proposed formal action is needed to comply with the statutory deadline for a periodic review of the City's Shoreline Master Program pursuant to RCW 90.58.080(4). Under WAC 173-26-090(3)(e)(i), Ecology must issue formal approval to conclude the periodic review process has occurred.

Amendment History, Review Process

The City prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines.

The City used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i).

The City reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii).

The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii).

The City consulted with Ecology and solicited comments.

The City opted to follow the standard adoption process in WAC 173-26-100. The record shows that the City held a public hearing before the City Council on February 20, 2019. The City provided notice to local parties, including a statement that the hearings were intended to address the periodic review in

Brier SMP Periodic Review

Finding of Adequacy

accordance with WAC 173-26-090(3)(c)(ii). Affidavits of publication provided by the City indicate notice of the hearing was published on February 7, 2019. No comments were submitted.

With passage of Resolution # 575, on March 12, 2019, the City authorized staff to forward their adopted Findings of Adequacy to Ecology for formal review.

The City adopted Findings of Adequacy were received by Ecology for state review and verified as complete on June 29, 2020. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on July 22, 2020, in compliance with the requirements of WAC 173-26-120. The state comment period began on August 3, 2020 and continued through September 1, 2020.

No comments were received during the state comment period.

Consistency with Chapter 90.58 RCW

The proposed Findings of Adequacy have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(4). The City has also provided evidence demonstrating compliance with SMA procedural requirements contained in RCW 90.58.090(1) and (2).

Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)

The proposed Findings of Adequacy have been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines including WAC 173-26-090. This included review of a SMP Periodic Review Checklist, which was completed by the City.

Consistency with SEPA Requirements

The City determined the Findings of Adequacy are exempt from State Environmental Policy Act review based on WAC 197-11-800(19), which covers resolutions or ordinances “relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment”, or “text amendments resulting in no substantive changes respecting use or modification of the environment.”

Summary of Issues Identified by Ecology as Relevant to Its Decision

Wetland Rating System

WAC 173-26-221(2)(c)(i)(B) requires SMPs to use the Washington state wetland rating system or develop their own. The City’s SMP references the Washington state wetland rating system, but refers to the 2004 version, which is obsolete. Ecology has updated its wetlands critical area guidance, which includes a 2014 wetland ratings system (see periodic review checklist item #2016.b). The City’s SMP under 20.10.290 states that “Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System for Western Washington documents (Revised, Publication #04-06-025, August 2004) **or as revised by the Washington State Department of Ecology.**” (emphasis added)

Finding. Ecology finds that the City’s SMP can be considered to use the most recent 2014 Ecology rating system by use of the phrase “or as revised by the Washington State Department of Ecology.” Therefore, Ecology finds that the City’s wetland rating system is adequate and does not need to be amended.

**Brier SMP Periodic Review
Finding of Adequacy**

Ecology also finds that the SMP uses point totals from the 2004 Ecology wetland rating system to determine protective buffers for wetlands. Therefore, Ecology recommends that the City administratively incorporate Ecology's crosswalk for rating scores between the 2004 and 2014 system (Attachment B) to maintain consistency with Ecology's most recent Wetland Rating System.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and comments received, Ecology concludes that the City's proposed Findings of Adequacy are consistent with the requirements of RCW 90.58.090(4) and the applicable SMP guidelines (including WAC 173-26-090).

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-100 regarding public and agency involvement in the SMP review process.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that it has complied with the procedural requirements for review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-100, WAC 173-26-110, and WAC 173-26-120.

Ecology concludes that with this action the City has completed the required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

DECISION

Based on the preceding, Ecology approves the City's Findings of Adequacy. With this approval, Ecology affirms the City has completed the requirement for a periodic review under RCW 90.58.080(4).