

City of Bainbridge Island
Marine Critical Areas Update
Frequently Asked Questions
February 19, 2008

1. What is the Critical Areas Ordinance?

The Critical Areas Ordinance (CAO) is the regulation that the City uses to protect wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, frequently flooded areas, and critical aquifer recharge areas. It is codified in the Bainbridge Island Municipal Code as Chapter 16.20. Critical Areas Ordinances are a requirement of the Growth Management Act and all Cities and Counties have a CAO.

2. What are marine critical areas?

Marine Critical areas are part of fish and wildlife habitat conservation areas and include shellfish areas, kelp and eelgrass beds, and herring and smelt spawning areas. Fish and wildlife habitat conservation areas also include areas with which endangered, threatened, and sensitive species have a primary association. Puget Sound Chinook Salmon are listed as a threatened species and the National Marine Fisheries Service (NMFS) has designated the nearshore around Bainbridge Island as critical habitat for this species. In addition, Puget Sound Steelhead trout are listed as threatened species and have been caught on Bainbridge Island during beach seining but NMFS has not designated critical habitat areas yet.

3. Why is the City amending marine critical area regulations at this time?

In December, 2005 the City adopted revisions to regulations protecting critical areas of the Island, Critical Areas Ordinance (Ordinance 2005-03). At the time, the City Council believed that the City's Shoreline Management Master Plan (SMMP) provided sufficient protection measures for marine critical areas based on best available science. The ordinance was challenged to the Central Puget Sound Growth Management Hearing Board, and after analysis, the City determined that additional consideration of these critical areas was necessary to meet the best available science requirements of the Growth Management Act.

4. What is best available science and why are you using that term?

The Growth Management Act requires that critical areas regulations must be based on best available science (RCW 36.70A.172). Best available science information can only be produced through a valid scientific process that generally contains peer review, clearly stated replicable methods, logical conclusions and reasonable inferences, quantitative analysis, and a proper context. The standards required for best available science are further defined in the Washington Administration Code (WAC 365-190-905 to 920).

5. What analysis was done to determine whether the City’s shoreline regulations provided protections based on best available science?

The City contracted with Battelle Marine Science Laboratory to look at the combined protections provided by the CAO and the SMMP. The scientists at Battelle analyzed the City’s SMMP regulations and how these regulations were developed and produced a report indicating that the protection measures for marine critical areas were not consistent with best available science.

6. Why would the SMMP not be considered best available science?

The primary protection for marine critical areas in the SMMP is the requirement to preserve a native vegetation zone between development and the shoreline. The width of this zone depends on the shoreline classification and is not based on the protection needs for the specific marine critical areas. Therefore, the same type of critical area could have different protection requirements, which is not consistent with best available science.

7. Are there other requirements in the Growth Management Act that would apply in this situation?

The Growth Management Act also requires “special consideration” for anadromous fish species. Protection of the nearshore habitat for salmon would be part of the special consideration.

8. Do we know if salmon are using Bainbridge Island shorelines?

The City has conducted a nearshore research and monitoring project with the Suquamish Tribe and Washington State Department of Fish and Wildlife that has documented adult and juvenile salmon along all types of shorelines. Based on this study, adult and juvenile salmon are presumed to utilize all Bainbridge Island shorelines.

9. How will the amendment to the regulations for marine critical areas be processed?

The City will be conducting a scoping meeting and providing a comment period to receive community input on issues and concerns related to regulations for the protection of marine critical areas. At the same time, the City staff will be working with the Environmental Technical Advisory Committee (ETAC) on what protection measures would be consistent with best available science. The regulatory changes will be processed as an ordinance amending the CAO, as approved by the City Council. Public hearings before the City Council will be conducted prior to the Council deciding on the ordinance. The amendment process timeline and flowchart is available on the City of Bainbridge Island Webpage. <http://www.ci.bainbridge-isl.wa.us/default.asp>

10. What is ETAC?

The Environmental Technical Advisory Committee (ETAC) is a group of experts in various aspects of environmental management that have volunteered to assist the City in developing regulations that are consistent with best available science.

11. What other resources will the City be using to support the amendment process?

There are many resources that will be used including a document released by the Washington Department of Fish and Wildlife entitled *Protecting Nearshore Habitat and Functions in Puget Sound, An Interim Guide*, which was developed by the Aquatic Habitat Guidelines Working Group (a multi-agency committee that includes Departments of Fish and Wildlife, Ecology, Natural Resources, Transportation, Community Trade and Economic Development (CTED) and the Puget Sound Partnership). This document will provide useful information during the marine critical areas amendment process. The document is available at http://wdfw.wa.gov/hab/nearshore_guidelines/

Other useful documents are:

- Bainbridge Island Nearshore Assessment (Available at the Library or at the City webpage at http://www.ci.bainbridge-isl.wa.us/nearshore_assessment_bas.aspx)
- Puget Sound Nearshore Partnership Reports (http://www.pugetsoundnearshore.org/technical_reports.htm)
- Washington State Aquatic Habitat Guidelines Workgroups White Papers (<http://wdfw.wa.gov/hab/ahg/weblinks.htm>)
- Puget Sound Salmon Recovery Plan (<http://www.sharedsalmonstrategy.org/plan/index.htm>)