

ORIGINAL

**CITY OF ORTING
WASHINGTON**

ORDINANCE NO. 2019-1045

AN ORDINANCE OF THE CITY OF ORTING, WASHINGTON, RELATING TO SHORELINE MANAGEMENT; AMENDING SECTION 11-6-1 OF THE ORTING MUNICIPAL CODE; ADOPTING PERIODIC REVIEW AMENDMENTS TO THE SHORELINE MASTER PROGRAM; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the people of the State of Washington enacted the Shoreline Management Act by a vote of the people in 1971; and

WHEREAS, the State of Washington Shoreline Management Act (RCW 90.58) (the "Act") adopted in 1972, recognizes that "shorelines are among the most valuable and fragile" resources of the State, and that to protect the public interest in preserving these shorelines, the State and local governments must establish a coordinated planning program to address the types and effects of development occurring along the State's shorelines; and

WHEREAS, the Shoreline Management Act (SMA) requires the City of Orting to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, in April of 2009 the City Council adopted Ordinance No. 2009-874 (adopting the shoreline master program) in accordance with the requirements of the Act; and

WHEREAS, RCW 90.58.080(4) requires the City of Orting to periodically review and, if necessary, revise the master program on or before June 30, 2019; and

WHEREAS, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

WHEREAS, the City of Orting developed a public participation program for this periodic review 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; and

WHEREAS, the City of Orting has followed its adopted public participation program,

including poster displays and staff available to answer questions at local festivals, public poster displays at the Orting City Library, an Open House, website publication of review materials and project timelines, emails to stakeholders, mailings to property owners in the shoreline, and comment periods; and

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

WHEREAS, the City of Orting 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); and

WHEREAS, the City of Orting 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); and

WHEREAS, the City of Orting Planning Commission completed a review of staff recommendations and prepared initial amendments; and

WHEREAS, the City of Orting consulted with the Washington State Department of Ecology (Ecology) early and often during the drafting of the amendments. The City of Orting worked collaboratively with Ecology to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance with WAC 173-26-104; and

WHEREAS, City staff consulted with and solicited comments from persons, groups, federal, state, regional, or local agency, and tribes, having interests or responsibilities relating to the shorelines or any special expertise with respect to any environmental impact, which groups include, the United States Army Corps of Engineers, the Puget Sound Regional Council, the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, the Washington State Department of Commerce, the Washington State Department of Natural Resources, Washington State Department of Agriculture, the Washington state Department of Social Health Services, the Washington State Department of Archaeology and History, the Washington State Department of Health, the Washington State Department of Transportation NW, the Washington State Parks Headquarters, the State of Washington Energy Facility Site Evaluation Council, the Puget Sound Partnership, The Department of Corrections, Pierce County , the Muckleshoot Indian Tribe, the Snoqualmie Tribe, the Duwamish Tribe, the Kikiallus Indian Nation, American Rivers, American Whitewater, Washington Wild, Washington Audubon, the Orting Valley Farmers Market, the Orting Chamber of Commerce, and Orting shoreline property owners; and

WHEREAS, the City of Orting conducted a formal public comment period in compliance with requirements of WAC 173-26-104; and

WHEREAS, the City of Orting published a legal notice in the News Tribune on March 1 for a public hearing on the proposed Planning Commission recommendation(s), including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii); and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared based upon Planning Commission Public Hearing Draft, and the City of Orting SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on March 1, 2019; and

WHEREAS, the City of Orting provided Notice of Intent to Adopt to the Washington State Department of Commerce in accordance with WAC 173-26-100(5); and

WHEREAS, in consideration of the minor impact of the proposed amendments to the overall SMP, the lack of anticipated public controversy over the proposed amendments, the lack of complexity of the proposed amendments, and the significant level of consultation with affected or responsible public agencies and entities, the City Council chose to hold a single public hearing on the April 1, 2019 to take public testimony regarding the proposed minor amendments to the SMP; and

WHEREAS, the proposed SMP periodic review amendments together with all other documents and records required pursuant to the optional joint review process, WAC 136-26-104, was sent to the Washington State Department of Ecology for review and initial determination; and

WHEREAS, the Washington State Department of Ecology reviewed the proposed SMP periodic review amendments made written findings and conclusions regarding the consistency of the proposed amendments to the SMP with chapter 90.58 RCW policy and its applicable guidelines, finding that the amendments are largely consistent with applicable laws and rules, serving as Ecology's written statement of initial concurrence for the proposed SMP periodic review amendments; and

WHEREAS, the City Council having considered the public testimony and having been in all matters fully advised, found that adoption of the proposed amendments were in the best interest of the public health safety and welfare, and in conformance with the Shoreline Management Act, adopted City Ordinance No. 2019-1045 proposing amendments to the SMP and an effective date; and

WHEREAS, the City Council has considered the proposed amendments to the SMP, and concurs in and approves those changes, which changes have been incorporated into Exhibit "A", attached hereto; and

WHEREAS, in furtherance thereof, the City Council finds that it will be in the best interest of the public health, safety and welfare, to adopt this ordinance, approving the changes to the proposed SMP submitted to the Washington State Department of Ecology pursuant to Ordinance No. 2019-1045, amending the SMP as set forth in attached Exhibit "A", to be effective as set forth in WAC 173-26-120(3);

WHEREAS, this completes the City of Orting's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

NOW, THEREFORE, the City Council of the City of Orting, Washington, do ordain as follows:

Section 1. Review and Evaluation. The Orting City Council hereby finds that the review and evaluation required by RCW 90.58.080(4) have occurred, as described in the recitals above.

Section 2. Adoption of Amendments to Shoreline Master Program. The Shoreline Master Program adopted by the City Council pursuant to Ordinance No. 874 and on file with the City Clerk, is hereby amended as shown by the revision marks as set forth in attached Exhibit A, which exhibit is incorporated by this reference as though fully set forth herein.

Section 3. Amendment of OMC Section 11-6-1 (Adopted by Reference). Section 11-6-1 of the Orting Municipal Code is hereby amended to read as follows:

The shoreline master program approved pursuant to Ordinance No. 2009-874, as amended pursuant to Ordinance No. 2019-1045 is hereby adopted by this reference and incorporated as though fully set forth herein. A copy of the shoreline master program, as amended, is on file in the city offices.

Section 4. Adoption. The Orting City Council hereby adopts the above referenced SMP revisions and finds the amended SMP consistent with the requirements of RCW 90.58 and WAC 173-26, as they apply to these amendments.

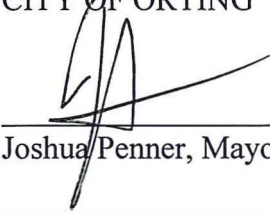
Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6. Submission to Department of Ecology. The planning staff or their designee is directed to submit the SMP and associated documents to the Department of Ecology for their review and approval prior to formal adoption. If/Once approved by the Department of Ecology no further action is necessary for compliance with RCW 90.58.080(4) for the periodic review update due on June 30, 2019.

Section 7. Effective Date. The amendments to the SMP adopted through Ordinance No. 2019-1045 shall be effective 14 days after Department of Ecology final action as provided by RCW 90.58.090(7).

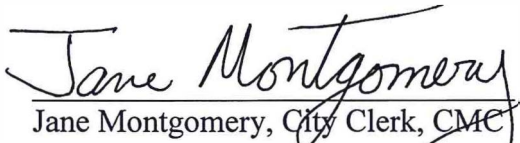
**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE 29th DAY OF MAY, 2019.**

CITY OF ORTING



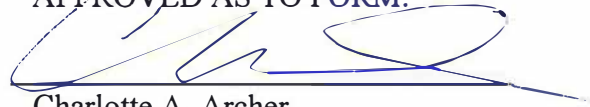
Joshua Penner, Mayor

ATTEST/AUTHENTICATED:



Jane Montgomery, City Clerk, CMC

APPROVED AS TO FORM:



Charlotte A. Archer
Inslee, Best, Doezie & Ryder, P.S.
City Attorney

Filed with the City Clerk: 5.9.19
Passed by the City Council: 5.29.19
Ordinance No.: 2019-1045
Date of Publication: 5.31.19
Effective Date: 9.3.19

EXHIBIT A

(Periodic Review Amendments to Shoreline Master Program)